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भारत का राजपत्र
The Gazette of India

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सं. 52] नई दिल्ली, दिसम्बर 22—दिसम्बर 28, 2019, शनिवार/पौष 1—पौष 7, 1941
No. 52] NEW DELHI, DECEMBER 22— DECEMBER 28, 2019, SATURDAY/PAUSHA 1— PAUSHA —7, 1941

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2177.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 (1970 का 5) की धारा 3 की उप-धारा (2क) के दूसरे परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, इण्डियन ओवरसीज बैंक की प्राधिकृत पूंजी को पन्द्रह हजार करोड़ रुपए से बढ़ाकर पच्चीस हजार करोड़ रुपए करती है।

[फा. सं. 11/8/2019-बीओए-I]

ए. के. घोष, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 23rd December, 2019

S.O. 2177.—In exercise of the powers conferred by the second proviso to sub-section (2A) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), the Central Government in consultation with the Reserve Bank of India, hereby increases the authorised capital of the Indian Overseas Bank from fifteen thousand crore rupees to twenty five thousand crore rupees.

[F. No. 11/8/2019-BOA-I]

A. K. GHOSH, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2178.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स रिलायंस जियो इन्फोकॉम लिमिटेड, कड़कड़डूमा, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय- 2, नई दिल्ली के पंचाट (संदर्भ संख्या 256/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 27.11.2019 को प्राप्त हुआ था।

[सं. एल-42025/07/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 16th December, 2019

S.O. 2178.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 256/2018) of the Central Government Industrial Tribunal cum-Labour Court-2, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Reliance Jio Infocomm Ltd., Karkardooma, Delhi & Others, and their workmen which were received by the Central Government on 27.11.2019.

[No. L-42025/07/2019-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1, DWARKA, DELHI

ID No. 256/2018

Shri Manoj Kumar S/o Shri Kanti Prasad,
R/o House No.A-4/302, Nand Nagar, Delhi 110 093

Through

All India General Mazdoor Trade Union (Registration No. 3025),
170, Bal Mukund Khand, Giri Nagar,
Kalkaji, New Delhi – 110 019 …Workman

Versus

1. Reliance Jio Infocomm Ltd.,
   1st Floor, Aggarwal Funcity Mall,
   Karkardooma, Delhi – 110 032

2. M/s. S/G. Encon Pvt. Ltd.,
B.S.-138, Sector 70
NOIDA, Zila Gautam Budh Nagar,
Uttar Pradesh …Managements

AWARD

Present dispute has been raised by Shri Manoj Kumar (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed on behalf of the claimant averring that he was working with M/s Reliance Infocomm. Ltd.(in short the management) through M/s S.G. Encon Pvt. Ltd.(in short the contractor) from 23.08.2015 as Field worker at a monthly wage of Rs.18,000.00. The claimant worked to the entire satisfaction of the management and gave no chance of complaint. No memo or charge sheet was ever served on him. The claimant was deprived of genuine labour facilities, i.e. bonus, yearly leave, double overtime, increments, wage slip etc. He demanded for the above legal facilities which irked the management and the management started paying his wages through vouchers. On objecting to the same, he was threatened to be thrown out of the job. However, when he reported for duties on 13.10.2017, the management without assigning any reason, all of a sudden, terminated his services. His earned wages for the period 01.10.2017 to 12.10.2017 and bonus and overtime for the period 23.08.2015 to 12.10.2017 have not been paid to him. Demand notice was sent to the management on 14.10.2017 but the management did not respond to the same. The management did not appear before the Assistant Labour Commissioner despite issuance of notice. The claimant is unemployed till date. Finally, it has been prayed that the claimant may be reinstated in service with full back wages.

3. Thereafter, the case was listed for filing of written statement by the managements. However, it was stated by Shri Munish Kumar, Manager of M/s S.G. Encon Private Ltd. that the matter is under settlement. Thereafter, on 09.01.2019, it was stated by Shri Prashant Tanwar, authorized representative for M/s S.G. Encon Private Ltd. that the claimant has fractured his leg and is not in a position to attend the court. On 22.11.2019, management filed Memorandum of Understanding dated 18.09.2018 Ex.C-2 between M/s S.G. Encon Pvt. Ltd and the claimant, duly signed by both the parties, stating that the matter has been settled amicably between the parties and a sum of Rs.1,50,000.00 is being paid as full and final settlement. Statement of Shri Manoj Kumar recorded separately. Cheque No.006410 dated 17.09.2018 for Rs.1,50,000.00 is Ex.C-1. In view of the Memorandum of Understanding Ex.C-2, there remains no grievance between the parties. The claim now stands settled amicably vide Memorandum of Understanding Ex.C-2 and cheque Ex.C-1, which shall form integral part of this Award. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

PRANITA MOHANTY, Presiding Officer

Dated : November 25, 2019

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2179.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स महाप्रबंधक, टेलीकॉम फैक्ट्री, रिछाई, जबलपुर (म.प्र) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय - जबलपुर, के पंचाट (संदर्भ संख्या 91/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुआ था।

[सं. एल-40011/54/2007-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2179.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 91/2008) of the Central Government Industrial Tribunal-cum-Labour Court- Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager Telecom Factory, Richhai, Jabalpur (M.P) & Others, and their workmen which were received by the Central Government on 16.12.2019.

[No. L-40011/54/2007-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/91-2008

Present: P. K. Srivastava , H.J.S..(Retd)

Shri Holmes Moses, Circle Secretary
BSNL Employees Union,
H.No. 2491, Ekta Parisar
RAtan Nagar Road,, Mandan Mahal
JABALPUR (M.P.) …Workman/Union

Versus

The General Manager
Telecom Factory
Richhai,
Jabalpur (M.P)-482001. …Management

AWARD

(Passed on this 24th day of October,2019.)

1. As per letter dated 26-6-2008 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-40011/54/2007(IR(DU)). The **dispute under reference relates to:**

> **"Whether the demand of Bharat Sanchar Nigam Limited Employees Union for grant of financial upgradation, under ACP Scheme, to Assistant Cook and Bear, on completion of 12/24 years of service, in the pay scale of Rs.3050-4590 and 5000-8000, respectively, is legal and justified/if yes, to what relief the workmen are entitled.?''**

2. After registering the case on the basis of reference, notices were sent to the parties.

3. According to the Workman the Telecom Factory was the establishment of Central Government under the Ministry of Communication Department of Telecom and under administrative control of the department, consequent upon the formation of BSNL on 1-10-2000. The Management control and services of employees working in the department of Telecommunication were transferred to BSNL, hence Management of Telecom Factory as well as their employees including employees of canteen became at present the employees of BSNL. The BSNL adopted all the Service Regulation of the Central Government for its employees as were applicable to them earlier. A Departmental Statutory canteen was set up in Telecom Factory in Jabalpur in 1-8-1980 in compliance of Provision of Section 46 of Factories Act and Rules made there under by the State Government of Madhya Pradesh. Subsequently the employees of Statutory Canteen were declared as Central Government Employees by Government Order w.e.f. 4-11-1981. Consequently the employees of all the canteens in Telecom Factory, Wright Town, Richhai at Jabalpur being Central Government employee w.e.f 4-11-1981. It is alleged that services of the workman who are working in the departmental canteen in the Telecom Factory rendered by them before 4-11-1981 are not being counted by the Management for pensionary and other benefits which is against the mandate of law propounded by the Hon. Supreme Court of India in the case **of Kanpur Suraksha Karmachari Union Vs. Union of India & Ors**. (1988)4 SCC 478. Accordingly, the workman have prayed that the Management be directed to count the past services of the workman rendered prior to them being declared Central Government w.e.f. 4-11-1981 be counted for pensionary and other benefits.

4. The case of Management is that before the Government Order of 1-8-1980 the Co operative Union user to run and manage the said canteens. They became Statutory Departmental Canteen only w.e.f. 4-11-1981 as mentioned in the Government Order of 1-8-1980. It is also the case of the Management that the said canteens were taken over by Post &

Telegraph Department vide its Notification No.6(2)/23/27 dated 11-12-1979 and vide Memo No.20/7/81/TF, dated 4-11-1981 the employees of the Cooperative Canteen who were running the canteen since before were accorded the status of Government Employees w.e.f. 4-11-1981. According to the Management the case of **Kanpur Suraksha Karmachari Union Vs. Union of India & Ors.(supra)** is not applicable to this case also that one canteen employee Pancham Singh Thakur filed a case before the Hon'ble Central Administrative Tribunal vided O.A.No.208 of 1987 decided vide judgment dated 27-7-1989 for overtime and bonus treating him of Central Government Employee w.e.f.1-10-1979 was rejected holding that before 4-11-1981, he was employee of Cooperative Union running the canteen which became Central Government only on 4-11-1981 and not prior to that as the Notification of 1979 is applicable only to employees of departmental canteen. Accordingly, the Management has prayed for reference to be answered against the workmen.

5. At the stage of evidence the workman absented and filed no evidence, hence closing their evidence the Management was accorded the opportunity to lead the evidence . The Management filed affidavit of I.R.Sapre, AGM Telecom Factory as his examination-in-chief . No cross-examination was done from the side of the workman ,hence opportunity of workman for cross-examination was closed. The Management has filed and proved Government of India Registry Communications and Circulars dated 4-11-1981, 7-10-1983, 5-5-1984 marked as Exhibit M-1, M-2 and M-3 respectively.

6. No one appeared on behalf of the Workman at the time of arguments, hence the arguments of Shri A.K.Shashi, learned Counsel for Management were heard . No written argument has been filed from the side of Workman inspite of opportunity given.

7. **The Reference is the point in issue in the case in hand .**

8. The burden to prove his case as alleged in the statement of claim is on the workman and they have not discharged and on the other hand from the uncontroverted affidavit of Management witnesses, supporting the case of Management as stated in their statement of defense as well as documents in the form of exhibits as mentioned ,it is established that the Workman were declared employees of Central Government w.e.f. 4-11-1981 and from this date the canteens were declared as Statutory or Departmental Canteen before this they were canteens run by Cooperative Union. In the case of **Kanpur Suraksha Karmachari Union Vs. Union of India & Ors.(supra)** the facts were different as the canteen was declared departmental canteen since before this date i.e. 4-11-1981 as held by Hon. Supreme Court that benefits of Central Government employees could be given to employees of Departmental Canteen and not to the employees of canteen run by the Cooperative Union.

9. In the case of Pancham Singh Thakur Hon'ble the Central Administrative Tribunal, Jabalpur held that the canteen employees of Telecom Factory at Jabalpur(applicant/workman in this case also) will be deemed to be Central Government Employees since the date they were declared so which is 4-11-1981 and since before this date they were employees of Cooperative Canteen and they cannot be treated as employees of Central Government.

10. In the light of the aforesaid findings and in absence of evidence to the contrary, there is nothing on record to hold the action of Management unjustified in law. Hence the reference is to be answered against the workman .

11. **On the basis of above discussion, following award is passed:-**

A. The reference is answered against the Workman holding their demand as stated in reference no justified in law and they are held entitled to no relief.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2180.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स कोलकाता टेलीफोन, कोलकाता और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ सं. 22/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.12.2019 को प्राप्त हुआ था।

[सं. एल-40011/17/2005-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2180.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Kolkata Telephones ,Kolkata & Others, and their workmen which were received by the Central Government on 06.12.2019.

[No. L-40011/17/2005-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 22 of 2006

Parties: Employers in relation to the management of Kolkata Telephones, Telephone Bhawan

AND

Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : Mr. Sushil Kumar Karmakar, learned counsel

On behalf of the Workmen : Mr. Madhusudan Dutta, learned counsel

State: West Bengal. Industry: Telephones

Dated: 25th November, 2019

AWARD

By Order No.L-40011/17/2005-IR(DU) dated 24.05.2006 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) referred the following dispute to this Tribunal for adjudication:

> *"1. Whether the contract of the management of Kolkata Telephones in relation to employment of their 11 workmen is a valid contract? 2. If not, whether the action of the management of Calcutta Telephones in not regularizing the eleve full time casual workmen (as per list enclosed as Annexure-A) in Group-D category of the employment in Calcutta Telephones is justified? If not to what relief the workmen are entitled to?"*

Annexure 'A'
List of concerned workmen

1. Shri Swapan Panda
2. Shri Rajat Kanti Modak
3. Shri Subrata Dutta
4. Alok Sarkar
5. Aloke Sarkar
6. Shri Amal Kumar Shaw
7. Shri Apurba Gayan
8. Subrata Kundu
9. Suresh Maghi
10. Biswanath Maghi
11. Paritosh Pal

2. As per statement of claim the concerned workmen were engaged as casual labourers and are discharging their duties and functions as such under the management of Kolkata Telephones since 1982. They worked for more than 240 days in a year consecutively in the tenure of service and as such they are entitled not only to get temporary status, but also for regularization and absorption in Group-D posts of Kolkata Telephones. It is further stated that for the purpose of enabling them to enter into office and discharge their duties the concerned workmen were issued gate passes. They perform their day-to-day work as instructed by the officers of Kolkata Telephones. Their names also appear in attendance

register for casual labourers working at 8, Hare Street, Kolkata and they record their attendance by signing attendance register maintained by the management in the normal course of business. Though no formal letter of appointment was issued by the authorities in favour of the concerned workmen, but they are being paid their wages through vouchers. It is also pleaded that though sometimes some of the concerned workmen discharged their duties as casual labourers, but vouchers were prepared in some other names and the management resorted to such practice to defeat the claim of the concerned workmen for regular robbing the number of days worked. Very recently for the last few months, before raising dispute in the matter, the workmen concerned are being paid through alleged contractor, though the entire money is coming from the management of Kolkata Telephones and such payments are being made for the duties and services rendered by them. The contractor is merely an intermediary and the contract is a sham contract as there was no real contractor within the meaning of Contract Labour (Regulation and Abolition Act, 1970. It is also stated that the duties and functions discharged by the concerned workmen are perennial in nature and the management is paying wages to the workmen, though at a lower rate from the public exchequer, but to camouflage the real state of affairs the management purported to engage some contractors with a *mala fide* intention to deny their absorption and regularization in Group-D category. As the workmen concerned are working since 1982 and have worked for required number of days viz. 240 days consecutively in each year, they are entitled to get their services regularized. The Kolkata Telephones is a 'State' within the meaning of Article 12 of the Constitution of India which cannot exploit its citizen by adopting some process which is prohibited by the Constitution. Therefore, an application had been moved under Section 19 of the Administrative Tribunal Act, 1985 at Kolkata. However, vide order dated 3rd September, 2003 the Tribunal dismissed the application as withdrawn with the observation that the Tribunal has no jurisdiction to decide the dispute in the matter of the employees of BSNL and leave was also granted to file fresh application before the appropriate forum. A Writ Petition No. 15644 of 2003 was also filed before the Hon'ble High Court at Calcutta. However, the same was also withdrawn.

3. The management of Kolkata Telephones filed its written statement denying the allegations of the workmen concerned and pleading *inter alia* that Shri Swapan Kumar Panda has no legal representative character to espouse the cause of the grievances of other employees. The reference is not maintainable as the issue referred is beyond the items enumerated in Second and Third Schedule of the Industrial Disputes Act, 1947 (hereinafter called as the Act of 1947 for convenience). The present dispute does not fall within the meaning of Section 2(k) of the Act of 1947. The dispute is neither been taken up by any recognized union, nor the same has been sponsored by majority of the workmen of the company to transform the alleged dispute into industrial dispute. The reference is also not maintainable as the workmen concerned were stopped from raising the alleged dispute after dismissal of application by the Central Administrative Tribunal and writ petition. It is further stated that the workmen concerned were engaged on no-work-no-pay basis as and when required depending on the exigencies of work. The jobs of the workmen concerned were sporadic and seasonal and they from 1995 performed few hours of duty in a day in few days in the months in question. The payments made through vouchers have already been disposed of as per the provisions and requirement of departmental formalities under Item No. 17 of Appendix 3 of Financial Handbook Volume-III, Part-I and as such there is hardly any scope to produce the records in relation to number of days. The concerned workmen worked till 1995. The Contract Labour (Regulation & Abolition) Act, 1970 has conferred right to engage contract labour and the provisions of the Act of 1947 have no overriding effect. There does not arise any question of automatic regularization of casual labourers even after having worked for more than 240 days in a year. They are not entitled to acquire the status of temporary workmen or absorption/regularization.

4. A rejoinder was also filed on behalf of the workman reiterating what have been stated in the statement of claim.

5. On behalf of the workmen WW-01, Swapan Panda and on behalf of the management of Kolkata Telephones MW-01, Malay Kumar Mukhopadhya have been examined.

6. I have heard both the parties.

7. As the maintainability of the reference on the ground of espousal by any union or by substantial number of workmen of the establishment has been raised by the management of Kolkata Telephones, it would be proper to take up this issue first.

8. Industrial dispute has been defined in Section 2(k) of the Act of 1947 which may be reproduced as below:

> *"(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditionsof labour, of any person."*

9. From the perusal of above quoted provision of industrial dispute, it is evident that a dispute between the employers and workmen concerning employment or non-employment or the terms of employment may be called industrial dispute. The word "workmen" used in above definition implies plurality of workman which may come into

existence either by espousal of individual dispute by union or by substantial number of workmen. In the present case the dispute regarding condition of labour or non-employment has admittedly not been espoused by any union. WW-01, Swapan Panda has himself admitted in his cross-examination that no union has espoused their cause. The 11 persons are contesting the case themselves.

10. In **The Bombay Union of Journalists** v. **The Hindu, Bombay**, 1961-II-LLJ 436 the Hon'ble Supreme Court has held that

> *"In each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference the dispute was taken up as supported by the union of workmen of the employer against whom the dispute is raised by an individualworkman or by an appreciable number of workmen"*

11 Similarly, in **Workmen** v. **Dharmpal Prem Chand**, AIR 1966 SC 182 it has been held by the Hon'ble Apex Court that a dispute raised by individual workman cannot become an industrial dispute unless it is supported either by his union or in absence of a union by a number of workmen and if there was no union of workmen in an establishment, a group of employees can raise the dispute which become an industrial dispute, even though it is a dispute related to an individual workman.

12. Discussing the principles of law propounded in **Bombay Union of Journalists** (supra) and **Workmen of M/s. Dharmpal Prem Chand** (supra) the Hon'ble Calcutta High Court in **M/s. Reckitt & Colman of India Ltd.** v. **Fifth Industrial Tribunal & Ors.**, 1980 LAB. I.C. 92 has further elaborated the representative character of union or the group of workmen. In this case 12 out of 18 car drivers had raised the dispute supported by the union, but the question involved in this case was whether the 18 car drivers should be taken to be the total number of workmen for the purpose of considering whether a substantial number of workmen had raised the dispute? The Hon'ble Court was of the opinion that as soon as it is held that the drivers form a distinct category and are in a position to affect the industry, the total number of workmen should be the total number of such workmen forming the particular class or category, the drivers. The Court treated the 12 car drivers who had raised the dispute to form a substantial part of total number of 18 drivers. The Hon'ble Court also endorsed the test laid down in its earlier decision in **Mitsubishi Sholi Kaisha Ltd.** v. **The Tenth Industrial Tribunal of West Bengal**, (1972) 76 Cal WN 753 as to whether the group of workmen are in such a position as to affect or impede the smooth operation of the company by raising a dispute, if yes, then it is an industrial dispute.

13. Now adverting to the facts of the instant case, it may be seen that the workmen who have raised the present dispute were admittedly appointed as casual workers. The workmen under reference are only 11 in number. Now, question is whether these 11 workmen in themselves constitute a substantial number of workmen so as to acquire representative character? In **Workmen of Indian Express Newspaper Pvt. Ltd.** v. **Management of Indian Express Newspaper Pvt. Ltd.**, 1970 (20) FLR 157 the company had no union of working journalists employed by it. About 25% of working journalists became member of another union. These 25% of working journalists were held to posses representative character vis-a-vis working journalists of the company and therefore, individual dispute was held to be transformed into industrial dispute. Evidently the workmen under reference cannot be said to be at least 25% of the workmen in the company. Apart from this, another test as laid down by the Hon'ble Calcutta High Court in **Mitsubishi Sholi Kaisha Ltd.** (supra) is as to whether the group of workmen are in such a position to affect or impede the smooth functioning of the company. If they are in a position to do so, the dispute can be said to have been transformed into an industrial dispute. Applying this test in the present case it is difficult to discern that the dispute raised by the present 11 persons under reference can affect or impede the smooth operation of the company. Therefore, the dispute cannot transformed into an industrial dispute.

14. In these circumstances, the workmen concerned cannot be said to have community of interest with the employees of Kolkata Telephones. Therefore, the present reference is not competent and this Tribunal has no jurisdiction to adjudicate the same. As the reference is not competent, other issues relating to contract and absorption/regularization of the workmen concerned need not be dealt with.

15. Award is passed accordingly.

Justice RAVINDRA NATH MISHRA, Presiding Officer

Dated, Kolkata,

The 25th November, 2019

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2181.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड, भोपाल (म.प्र) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय - जबलपुर, के पंचाट (संदर्भ सं. 69/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुए थे ।

[सं. एल-40012/41/2009-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2181.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2009) of the Central Government Industrial Tribunal-cum-Labour Court- Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager Telecom, Bharat Sanchar Nigam Ltd., Bhopal (M.P.)& Others, and their workmen which were received by the Central Government on 16.12.2019.

[No. L-40012/41/2009-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/69/2009

Present: P.K. Srivastava H.J.S.(Retd)

Shri Rajkumar Gupta
S/o Shri Ramhridaya Gupta,
R/o Subhash Nagar, Baju Mohalla
Bhind (M.P.) …Workman/Union

Versus

The Chief General Manager Telecom,
Bharat Sanchar Nigam Ltd.,
CTO Building ,T.T.Nagar
Bhopal (M.P.) …Management

AWARD

(Passed on this 13th day of November, 2019)

1. As per letter dated 17-7-2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-40012/41/2009-IR(DU). The dispute under reference relates to:

> ***"Whether the action of Management of Chief Genenral Manager, Telecom in terminating the services of their workman Shri Rajkumar Gupta w.e.f. 18/2/2008 is legal and justified? If not , what relief the workman concerned is entitled to ?"***

2. After registering the case on the basis of reference, notices were sent to the parties.

3. The case of the workman as stated in his statement of claim is that he was initially appointed on February-1986 as a labourer, worked in the office of General Manager Telecom, BSNL, Morena(M.P.) and continued to discharge his duties as labourer uninterruptedly till 18-2-2008. His services were terminated, thereafter by a verbal order without any notice or compensation/notice pay which is against the provisions of Section 25(F) and 25(N) of the Industrial Disputes Act 1947 as well as violative of Rule 77 of "Industrial Dispute Central Rules 1957 (herein referred to by word Rules"). It was also alleged that since the date of termination the workman was never gainfully employed, accordingly his termination is against law. The workman has requested the relief of setting aside of his termination and his reinstatement with consequential benefits.

4. The case of Management is that the workman was never employed as an employee by Management. He was a daily wager who might have been engaged through contractor, no appointment letter was issued to him. The workman was enrolled as a muster roll worker in Feburary-1986 which was closed thereafter. Management has denied the claim of the workman that he had been in continuous engagement under Management for a period of 240 days or more in the year preceding his date of disengagement, hence no violation of any legal provision. Accordingly the Management has prayed that the reference be answered in negative.

5. The workman filed rejoinder wherein he denied the case of the Management and reiterated his case.

6. At evidence stage, the workman examined himself on oath and his witness Hakim Singh Rathore, Senior Telecom Officer and has proved the documents , certificates dated Exhibit W-1, W-2, W-3, W-5, W-6, W-7, W-8, identity card Exhibit W-4 and work diary typist Exhibit W-9.

7. The Management has examined its witness Shri Vinod Kumar Rawat, Assistant General Manager.

8. I have heard the arguments of learned Counsel Shri Praveen Yadav for Workman and Shri R.S.Khare for Management and have gone through the records. Management has filed memorandum of pleadings which has been admitted on record. I have gone through the memorandum as well.

9. Following issues arise after perusal of the record , in the light of the rival arguments:-

Issue No.1:- Whether the workman could successfully prove his engagement for a period of 240 days or more in the year preceding the date of his dis-engagement i.e. 18-2-2008?

Issue No.2:-Whether the disengagement /termination of the services of the workman is legal and justified.?

Issue No.3:-Whether the workman is entitled to any relief?

10. **Issue No.1:** Respective stand of the parties taken by them in their pleadings have been detailed earlier. In his statement on oath, the workman has stated that he was first appointed as labour in the Bhind office of Management in February-1986. He was in continuous service of the Management till his termination on 18-2-2008 which was done by Management without notice or compensation/notice pay. He had moved applications for his regularization the then Divisional Engineer(Administration) /District Manager had in fact recommended his case for regularization vide his letter dated 18-2-2000. He used to work as a typist, as a class-IV employee, as a dispatcher, as a cleaner and as a person to take records from one office to another office continuously for 22 years. He was issued identity card by the department in the year 1991 and appreciation letters by the officers under whom he worked. The workman has proved photocopy of appreciation letters which are Exhibit W-1, W-2, W-3, W-5, W-6 and W-8 for different years, issued by different Sub-Divisional Officers by way of secondary evidence as permitted by my learned predecessor.

11. In his cross-examnation, he has admitted that his name was not recommended by any employment exchange. He denied that certificates are fake .

12. The workman witness Hakim Singh Rathore who himself is a retired BSNL employee at the timee of his evidence has supported the case of the workman in his statement of oath on this point. He has stated that he retired on 31-1-2005 as Senior T.A.O after 37years of service. He has seen the workman working in the office since 1986 to February-2008. The workman was a hard working person. He used to carry all files, mails, do cleaning of office. In his cross-examination, this workman witness has stated that he had worked in the BSNL Office of Bhind and Morena both. He used to visit the Bhind Office after his retirement for works like payment of bills and in the matter of his payment of provident fund which was pending for 10 years.

13. On the other hand the Management witness Shri V.K.Rawat, Assistant General Manager has stated on oath that the workman was never employed. He never worked for 240 days at any point of time. He is not entitled to any compensation or relief. There is *n*o vacancy with regard to workman at any point of time. In cross-examination, this witness admits that he was never posted in the Bhind office. He further states that no documents with regards to the present workman is available with the office for the year 1986 to 2008.

14. Reference of Section 2(oo) of the Industrial Disputes Act,1947 requires to be mentioned here which is as follows:-

2[(oo) "retrenchment" means the termination by the employer of the service of a workman for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include— (a) voluntary retirement of the workman; or (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;

15. The documents in the form of identity card and certificates issued by different officers of Management at different point of time proved by workman in which his work, conduct and integrity has been appreciated by officers

which indicate that the workman was engaged may be in the capacity of a casual labour by Management. These photocopy documents contain dispatch number and letter number etc. and their originals are available in the said offices. There is nothing in the statement of management witness that the originals of these certificates are not available with the Management. These photocopy documents have been proved under orders of Court, hence they cannot be brushed aside. The workman witness Shri Hakim Singh Rathore is a retired officer of the Management working in the same office which is not been disputed b Management has corroborated the case of the workman, relevant portion has been referred to in this judgment. All these oral and documentary evidences are corroborative of statement of workman in which he has corroborated his case on this point. On, the other hand there is a uncorroborated self service statement of Management witness hence the balance of probability leans towards the case of workman and his case that he has been in continuous engagement of Management since 1986 to 2008, as claimed by him stands proved. Accordingly the factum of his continuous engagement of more than 240 days in the year preceding his date of disengagement which is 18-2-2008 is also held proved. **Issue No.1 is answered accordingly.**

16. **Issue No.2**:- Section 25(F) and Section 25(N) of the Industrial Disputes Act,1947 and Rule 77 of Industrial Disputes Central Rule 1957 reads as under:-

25F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until— (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

2 [25N. Conditions precedent to retrenchment of workmen.—(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,— (a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and (b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf. (2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner. (3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen. (4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days. (5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order. 1. Sub-section (6) re-numbered as sub-section (10) by Act 49 of 1984, s. 4 (w.e.f. 18-8-1984). 2. Subs. by s. 5, ibid., for section 25N (w.e.f. 18-8-1984). 33 (6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication: Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. (7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of

retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him. (8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub- section (1) shall not apply in relation to such establishment for such period as may be specified in the order. (9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

Industrial Dispute Central Rules,1957:-

77. Maintenance of seniority list of workmen.—The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

17. The Management witness himself admits that no notice, compensation/notice pay was given to the workman on his disengagement, hence the termination of workman is held violative of statutory provisions as mentioned above. **Issue No.2 is answered accordingly.**

18. **Issue No.3:-**When there is a finding of fact that the termination of workman was not legal, the point arises is what relief he is entitled to ?. It has been submitted by learned counsel for Management that reinstatement is not legally justified relief because there is no vacancy as such and compensation will do complete justice between the parties. He has placed reliance in the case of **Assistant Engineer, Rajasthan Development Corporation vs. Gitam Singh (2013)5 SCC 136 and M.P.State Agro Industries Development Corporation Vs. S.C.Pandey (2006) 2 SCC 716** in this respect. In these two cases when the disengagement of the daily wagers was found against law,compensation was held as proper remedy. ***Issue No.3 is answered accordingly.***

19. In the case in hand , the engagement of workman for as many as 22 years i.e. from February,1986 to 18-2-2008 has been held proved. Even if he is not reinstated, he deserves a lump sum compensation keeping in view of the tenure which he spent with the Management. In the light of the proved facts and tenure of employment, a lump sum compensation of Rupees Three Lakhs (Rs.3,00,000/-) will meet the ends of justice for a workman who has given 22years of his youth to the department, thrown out by the department without adopting any procedure in law.

20. **On the basis of above discussion, following award is passed:-**

A. The termination of workman is held illegal and unjustified.

B. The workman is held entitled to compensation of Rs.3 lakh (Rs.3,00,000/-) from Management to be paid by Management within 30 days from the date of publication of Award.

21. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE:13.11.2019

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2182.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स रजिस्ट्रार, मणिपाल विश्वविद्यालय, मणिपाल बंगलौर और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,-बैंगलोर के पंचाट (संदर्भ सं. 41/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.12.2019 को प्राप्त हुए थे ।

[सं. एल-42011/30/2009-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2182.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2009) of the Central Government Industrial Tribunal-cum-Labour Court- Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to The The Registrar, Manipal University, Manipal (KARNATAKA) & Others, and their workmen which were received by the Central Government on 04.12.2019.

[No. L-42011/30/2009-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, BANGALORE

DATED : 29TH NOVEMBER 2019

PRESENT: JUSTICE SMT. RATNAKALA, Presiding Officer

CR 41/2009

I Party	**II Party**
The President, Manipal University Mazdoor Union, C/o BSM Office, Felix Pai Bazaar, MANGALORE – 575 001.	The Registrar, Manipal University, Madhav Nagar, MANIPAL – 576 104.

Appearance

Advocate for I Party : Mr. K.B. Arasa

Advocate for II Party : Mr. K.S. Bhat

AWARD

The Central Government vide Order No. L-42011/30/2009-IR(DU) dated 24.07.2009 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of the management of Manipal University in revising the Medicare Rules w.e.f. 01.04.2007, thereby revising the contributions towards Medicare Rules is legal and justified? If not, what relief the workmen are entitled to?"**

Corrigendum dated 23.06.2015 as below:

> **"Whether the action of the management of Manipal University in revising the Medicare Rules w.e.f. 01.04.2008, thereby revising the contributions towards Medicare Rules is legal and justified? If not, what relief the workmen are entitled to?"**

1. The case of the 1st Party Union is, it is a registered Trade Union operating within the jurisdiction of the Employers; long before 2004 the 2nd Party introduced Medicare Rules applicable to students, teaching and non-teaching staffs besides extending the benefit to the public. The rule was modified w.e.f 01.04.2004 vide notification dated 22.05.2004, the order was issued with retrospective effect. The second modified Medicare Rules was issued on 09.03.2007 and was made applicable from 01.04.2007. By this Medicare Rules the monetary burden on each employee has increased slightly while the benefits remain the same. On 25.03.2008, third modified Medicare Rules was issued and made applicable from 01.04.2008, said change was not notified to the affected employees by this revised Rules. The contribution by each employee has doubled but the end benefit remains the same. Fourth modified notification was issued on 09.04.2008 and was made applicable retrospectively from 01.04.2008. This notification has taxed the employees but the end benefit remains the same. The third and fourth notifications are made in violation of provision of Section 9A of 'the Act' and affect the interest of the non-teaching employees adversely. The Union placed it's demand before the Management to withdraw the last order and extend the earlier benefit. Though, Medical service rendered by the Management to the employees is deemed to be free of any extra charge, actually various charges are recovered from the sick employees and treated. Revising the Medicare contribution w.e.f 01.04.2008 is clearly in violation of the provision of Section 9A of 'the Act', same is illegal and not justifiable.

By way of rejoinder statement, it is further stated that the 2nd Party started revising Medicare from time to time without giving advance notice to the employees they have misused the consent letters for premium deduction given at the

beginning of the scheme which was introduced on 01.01.1972. They have tied up with insurance companies without giving advance notice; without commensurate increase in the benefits to the employees, the premium rates are increased. No option was given to the employees from the revised Medicare scheme. The consent letters given by them at the beginning is misused for deducting the premium amount from the salaries of the employees. The employees were restrained from getting treatment in other reputed Hospital other than the Hospitals managed by the 2nd Party.

2. The counter case of the 2nd Party is, With the increase in Medicare premium rate on account of increase of cost of medical care, Medicare premium is increased. The employee's share of the Medicare premium rate was increased on account of increase in cost of medical care. The percentage of employee's share of the premium has remained 50% only. Initially, Medicare Scheme was administrated by the Management; to get better benefits to the employees. Management got the tie up with the Insurance Companies to issue Medicare Policies covering the group of employees of the University at a reasonable cost. The premium being variable and being increased time to time depending upon the cost of Medicare, it does not amount to change in condition of service; it is variable factor and depends upon the cost of Medicare. During 2008, total premium charged by the Insurance Company was approximately Rs. 117.98 Lakhs and 50% is borne by the Management; ESI Act is not applicable to the University. Under ESI Act, 1.75% of the total salary shall be paid as employees share; it is much more than, what is payable under Medicare Scheme. The employees are getting best Hospital facility and treatment in the Hospital of the University which is better than the facility available in ESI Hospital. The Medicare Scheme does not fall under any of the items set out in the Schedule IV of the ID Act.

The 1st Party thereafter filed a rejoinder denying the contentions of the 2nd Party and pleaded that modification made it the Medicare Scheme by the 2nd Party w.e.f 01.04.2005 need to be declared as null and void.

3. Both parties have adduced evidence reiterating their stand.

The Legal Officer of the 2nd Party was their witness. Among other things, in his affidavit evidence, he has averred to the effect the circular dated 25.03.2008 was found to be erroneous and was rectified vide circular of 09.04.2008. He has listed additional benefits extended to the employees after tie up with the Insurance Companies for reinsurance. He further lists as many as eight benefits which are provided to the employees without any support / tie up with the insurance companies.

The 1st Party examined the General Secretary of their Union. Apart from reiterating the grievance, he has produced the extracts of the Medicare Scheme and copies of the earlier Medicare Scheme. During his cross-examination he admits that, ESI Scheme is introduced in the year 2010, in respect of the employees drawing salary below RS. 15,000/- and Medicare facility is made optional for them. The employees drawing the salary below Rs. 15,000/- have exercised the option of Medicare facility instead of availing ESI Scheme. He admits the suggestion that, the premiums are in the increasing trend.

4. Both Parties have submitted their argument in writing.

5. The legality of action taken by the Management in revising the Medicare Rules w.e.f 01.04.2008 is the vexed question.

Though, the 1st Party admits the above measure taken by the 2nd Party, their contention is the revision amounts to change of condition of their service which warranted a prior notice Under Section 9A of 'the Act', I find no merit in the said contention, for the simple reason that notice of change under Section 9A of 'the Act' is warranted in respect of any of the matter specified in IV Schedule to 'the Act'. As such the IV Schedule contemplates 10 matters / areas which amount to conditions of service. Recovery of 50% of the premium in respect of Medicare facility from the salaries of the employees does not come within the umbrella of any of the 10 subjects listed in the fourth Schedule. Thus, the revision of the Medicare Rules w.e.f 01.04.2008 is not hit by Section 9A of 'the Act'.

The 1st Party has placed reliance on several Authorities and none of these Judgements have any semblance to the facts on hand. The Judgement of Apex Court relied by them in the matter of Management of Indian Oil Corporation Ltd., vs ITS Workmen 1975 AIR 1856 and in the matter of Calcutta Electric Supply Corp. Ltd., vs Calcutta Electric Supply Workers and Union and others are in respect of withdrawal / withholding the benefits unilaterally to the prejudice of the workmen.

Much is said on the enhancement of the premium without the consent/joint meetings, which is causing financial burden on the workman. It is a known fact that, with passage of time the cost of drugs and treatment are escalating and the insurance companies cannot be expected to provide medical facilities at the rates fixed once upon a time.

6. No where it is shown that, membership of the Medicare Rules is compulsory; it is brought out during the evidence of WW1 that, subsequently 2nd Party have made applicable ESI Act to the employees. None of the affected employees are examined to vent out their grievance against the revised Rules. No contrary material is brought on record to establish that, the medical facilities that are available under the Medicare Rules is inferior to the facilities available

under the ESI facilities. On introduction of ESI facility the employees have option to choose between the two schemes. That being so the claim of the 1st party is without any foundation or merit.

AWARD

The reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 29th November, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2183.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महानिदेशक, सीपीडब्ल्यूडी, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय – चंडीगढ़ के पंचाट (संदर्भ सं. 09/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुए थे ।

[सं. एल-42011/10/2016-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2183.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 09/2016) of the Central Government Industrial Tribunal-cum-Labour Court-2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director General of Works, CPWD, New Delhi & Others, and their workmen which were received by the Central Government on 16.12.2019.

[No. L-42011/10/2016 -IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 9/2016

Registered on:-05.04.2016

Vineet Pal S/o Krishal Pal, Khalasi(Electrical), Resident of House No.1809,
Sadar Bazaar, Gandhi Chowk, Darabi Line, Karnal (Haryana). …Workman

Versus

1. The Director General of Works, CPWD, Nirman Bhawan, New Delhi.
2. The Executive Engineer, Karnal Central Electrical Division,
   Central Public Works Department, Karnal. …Respondents/Managements

AWARD
Passed on:- 02.12.2019

Central Government vide Notification No. L-42011/10/2016-IR(DU) Dated 09.03.2016, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of the management of Central Public Works Department, Central Electrical Division, Karnal in terminating the services of the workman Sh. Vineet Pal S/o Shri Krishal Pal, Khalasi w.e.f. 01.06.2012 is legal and justified? If not, what relief the workman is entitled to and from which date?"**

1. The facts, in brief, are that, the workman/claimant Vineet Pal was employed as Khalasi(Electrical) by the respondent no.2 for day to day work at DWR site at Karnal w.e.f. 01.02.2010. The work of Khalasi(Electrical) was of perennial nature but his services were orally terminated abruptly on 01.06.2012 without issuing any show cause notice or

retrenchment compensation. The alleged contract was sham and camouflage and was executed by the management in order to deprive the workman from the liability arising under the Industrial Disputes Act, 1947. The workman submitted representation for reinstatement to the respondent-management copy of which is appended as Annexure W-1 and Union of the workman copy of which is Annexure W-2 with the claim petition. The issue of contractual workers came to be examined by the Hon'ble High Court of Delhi in Civil Writ Petition No.4817 of 1999 and in pursuance of the judgment of the Hon'ble High Court, a Board is constituted under the Ministry of Labour as per Notification on 31.07.2002 abolishing thereby contract system for 15 jobs. The copy of the notification is attached as Annexure W-4. The workman being unsuccessfully with the management submitted a representation before the Assistant Labour Commissioner (Central) Karnal for consideration but that too failed due to adamant approach of the management, resulting the reference by the Government of India, Ministry of Labour. The workman is not working anywhere as he could not spare time for doing any job due to the pendency of the present case. Hence, it is prayed that workman is entitled for reinstatement in service w.e.f. 01.02.2010 and regularization of his services from the date of his employment under CPWD and salary of regular Khalasi(Electrical) with all consequential relief.

2. Respondent No.1 has not filed any written statement.

3. Respondent No.2 has filed its written statement, alleging therein that claim petition is not maintainable in its present form against the answering respondent because answering respondent has given the contract to M/s Sharma Electrical and Engineering Works for providing services of the staff for the day to day work vide agreement no.8/AE(E)KCESD/2010-2011 for the period 31.05.2010 to 30.05.2011. The terms and conditions of the agreement was with the staff deployed by the contractor in no way shall be eligible for appointment in the department and entire responsibility shall rest on the part of the contractor. It is further stated that subsequent agreement no.16/ AE(E)KCESD/2011-2012 for the period 2011-2012 was executed which is started on 10.08.2011 add completed on 21.09.2012 with the same terms and conditions. There is no relationship of master and servant or employer and employee between the workman and answering respondent as it has no direct control and supervision as alleged by the workman. Respondent has denied the 240 days of regular work in each calendar year by the workman because respondent never employed claimant/workman hence, question of regularisation of the services of the workman is totally irrelevant. Respondent further denied that workman was appointed against the sanctioned post as well as the work of the claimant/workman is not of perennial in nature as explained hence, the alleged notification is not applicable. It is prayed that the statement of claim of the workman is liable to be dismissed with exemplary cost in the interest of justice.

4. The workman/claimant has filed its rejoinder/replication almost alleging and repeating the same facts which has specifically mentioned in the claim petition as such, there is no need for its repetition.

5. In support of his case, workman has filed its affidavit but in spite of the several opportunities, claimant/workman did not turn up for cross-examination by the respondent/management. The learned counsel of the workman/claimant Sh. Som Dutt Sharma, as well as zonal secretary of the union Sh. Raj Kumar informed that workman/claimant is not in their contact and he is unable to produce the witness. It is further stated that Tribunal is at liberty to pass the order according to Law. The information given by the learned counsel of workman Som Dutt Sarma as well as zonal secretary Raj Kumar, this Tribunal was forced to close evidence of the workman with the observation that affidavit filed by the workman as evidence shall not be read in evidence.

6. Respondent-management has filed affidavit of witness Rajeshwar Tyagi, Executive Engineer(E), Karnal, Central Electrical Division, CPWD, Karnal, but none turn up on behalf of the workman to cross-examine this witness. Thus, the facts alleged in the affidavit of the Executive Engineer Rajeshwar Tyagi remains intact and uncontroverted.

7. Heard the arguments of the learned counsel of management Sh. M.K. Malhotra in the absence of the workman and his counsel Som Dutt Sharma as well as zonal secretary Raj Kumar.

8. Perusal of the file reveals that Government of India, Ministry of Labour has made a reference dated 09.03.2016 regarding the termination of the workman Vineet Pal for alleged illegal and unjustified termination of the workman but workman contesting the case for a handsome time left the paravi of the case after submitting his evidence in the form of affidavit, forcing his counsel as well as secretary of the union helpless in prosecuting the case. This, Tribunal has no option except to close the evidence and opportunity of the workman for adducing any further evidence. The affidavit filed by the workman/claimant as evidence has lost his legal relevance because management has got no opportunity to cross-examine the workman/claimant.

9. Contrary to this, learned counsel of the respondent/management has specifically denied the relationship of employer and employee/master and servant by alleging that claimant/workman was the employee of the contractor M/s. Sharma Electricals and Engineering Works day to day basis for electrical maintenance vide agreement no.8 and agreement no.16 copies of which are attached with the file. The terms and conditions mentioned in the agreement and status of the agreement is proved by the witness of the management namely Rajeshwar Tyagi, Executive Engineer through his affidavit. There is no dispute about preposition of law that onus to prove that claimant was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove

factum of his employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of his/her appointment or engagement for that year to show that he/she worked with the employer for 240 days or more in a calendar year. In this regard reference may be made to ***Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Mehgajibhai Gavda (2012) 1 SCC 47.***

10. The ratio of the above case decided by the Hon'ble Supreme Court makes it crystal clear that burden lies on the workman to prove the relationship of employer and employee and the payment made by the establishment/management but there is nothing on record to proved the fact that the alleged contract was shame and camouflage and the workman/claimant was directly appointed by respondent no.2 as is alleged in the claim petition. Thus, the case in hand became the case of no evidence because workman/claimant has left prosecution of the case for the reasons best known to him. In the circumstances, it can be safely observed that there is nothing on record to prove that answering respondent has orally and illegally terminated the services of the workman/claimant as is alleged by the workman.

11. Having gone through the above facts and Law, this Tribunal is of the considered opinion that the workman/claimant has miserably failed to prove that his services were illegally terminated by the management w.e.f. 01.06.2012. Hence, award is answered accordingly.

A. K. SINGH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2184.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स रजिस्ट्रार,राष्ट्रीय प्रौद्योगिकी संस्थान, कुरुक्षेत्र, हरियाना और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय – चंडीगढ़ के पंचाट (संदर्भ सं. 10/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुए थे ।

[सं. एल-42012/49/2017-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2184.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2017) of the Central Government Industrial Tribunal-cum-Labour Court-2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Registrar, National Institute of Technology, Kurukshetra, (Haryana) & Others, and their workmen which were received by the Central Government on 16.12.2019.

[No. L-42012/49/2017-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 10/2017

Registered on:-01.03.2018

1. Sudershan Singh S/o Sohan Lal, R/o 404/5 Ward No.10, Mohan Nagar, Kurukshetra.
2. Kishor Kumar S/o Jai Singh, R/o Village Khaspur, Distt. Kurukshetra.
3. Johny Saini S/o Jai Singh Saini, R/o H.No.812/7, U.E. Kurukshetra.
4. Vijay Negi S/o Buthan Singh, R/o H.No.F-57, NIT Campus, Kurukshetra.
5. Kanta Kumar D/o Bhutan Singh, R/o H.No.F-57, NIT Campus, Kurukshetra.
6. Rajinder Kumar S/o Sube Singh, Village Dayalpur, Distt.Kurukshetra. …Workmen

Versus

1. National Institute of Technology, Kurukshetra, near Kurukshetra University, Kurukshetra through its Registrar.

2. Director, National Institute of Technology, Kurukshetra,
Near Kurukshetra University, Kurukshetra. …Respondents/Managements

AWARD

Passed on:-02.12.2019

Central Government vide Notification No. L-42012/49/2017-IR(DU) Dated 26.09.2017, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the demand of Sh. Sudershan Singh S/o Sohan Lal and five other workmen indicated in the complaint dated 26.06.2016 in respect of wage as per qualification and experience on the basis of prevailing DC rate of Kurukshetra is legal and justified? If so, what relief the union/workers is entitled to and from which date?"

1. Both the parties were put to notice and claimants/workmen filed their statement of claim with the averment that they were working as computer operator in different departments of the institution of respondent on contract basis on a salary as per DC rate Kurukshetra for more than 4 years. As per DC rates, list of the year 2017-18 there are 3 categories of computer operator for which wages were fixed by the DC Kurukshetra i.e. computer operator 10+2, computer operator having experience 4 to 7 years, computer operator having experience more that 7 years as is mentioned in the claim petition. Workmen are entitled for wages mentioned at Serial No.II as per DC rate on the basis of having experience of more than 4 years and qualification of graduation but respondent-department did not paying the same rather paying the wages to the workmen as mentioned at Serial No.I against the contravention of Law as well as wages fixed by the DC Kurukshetra since March 2014 onwards. The experience certificates of the workmen are attached as C-1(colly) and copy of the DC rate Kurukshetra fixed for the year 2017-18 as Annexure C-2. The representation sent by the claimants and in conciliation proceeding before the Labour Inspector an amicable agreement was entered into for payment of wages on the basis of respective experience but respondent-department did not comply the same by virtue of that Labour Inspector, Kurukshetra has no jurisdiction and only the Labour Commissioner Kurukshetra have jurisdiction to entertain the same. Claimants were working from their initial appointment by way of extension from time to time and sanction was granted on 27.01.2014 whereas the claimants worked from 01.01.2014 to 26.01.2014 and their salary was not paid by the management. The action of the respondent is arbitrary, illegal and against the principle of natural justice and reference is deserves to be settled in favour of the claimants to meet the ends of justice. The overdue wages of the workmen upto 28.02.2018 is attached as Annexure C-5 for kind perusal of the Tribunal.

2. Management has filed its written statement, alleging therein that National Institute of Technology, Kurukshetra is an institution of National Importance under the Ministry of Human resource Development, Government of India. The Government of India enacted the National Institute of Technology Act, 2007 in order to declare NITs to be institutions of National Importance to provide for instructions and research in branches of engineering, technology, management, education of sciences and arts and other matters connected with such institutions. In view of the Act, all the appointments of the staff in every institute mentioned in the Act has to be made in accordance with the Act as well as the procedure laid down in the Institute. The Government of India, MHRD framed the first statutes for all the NITs and the same was notified on 23.04.2009. In view of the same, the NIT is governed by the same Act. In fact the post of computer operator does not exist in the institute but as per the decision of Board of Governors, the workers are being engaged computer operator on contractual basis as per rate of DC Kurukshetra, under Clause 17(8) of the status under NIT Act, 2007. The institute floated an advertisement no.18/2013 for conducting walk in interview on 08.07.2013 to engage the persons on contract basis for the post of computer operator along with other technical post in the department. As per qualification, experience required for the post of computer operator are enclosed as Annexure R-1 for kind perusal. The selected candidates for the engagement of computer operators were duly interviewed and selected and copy of the engagement letter is enclosed as Annexure R2. It is further mentioned that on 01.08.2014 the computer operators who were being engaged through agency M/s Radha Krishan Co-Op L/C Society Ltd. Kurukshetra till 30.06.2014 have been relieved on 30.06.2014 except the petitioners. The complainants are continuing in service in compliance of the interim order passed by the Hon'ble High Court of Punjab & Haryana at Chandigarh in CWP No.12126/2014 copy of which is attached as Annexure-C in which next date of hearing is fixed for 22.12.2015 by the Court. The competent authority of NIT Kurukshetra during the period from 01.01.2014 to 26.01.2014 has not employed workmen and if any attendance marked in the attendance register by the claimants that are irrelevant. The said attendance is not authorized as per records. The complainants have been engaged on the basis of +2 pass therefore they will not be paid DC rate of Kurukshetra as prescribed for graduation. The facts mentioned above, the request of the complainants may be considered in consonance with the decision of the Hon'ble High Court and petition is not maintainable and is liable to be dismissed.

3. Workmen filed their replication/rejoinder, alleging therein that the original date of appointment of workmen are as Sudarshan Singh-09.06.2010, Kishore Kumar-01.03.2010, Rajender Kumar-30.07.2012, Johny Saini-12.09.2011, Kanta Kumari-12.09.2012 and Vijay Negi-19.01.2011. It is further stated that the interim order of the Hon'ble High Court in CWP No.12126/2014 has no embargo on application of latest DC rates which is also a vested right of the workmen. Remaining facts of the replication are same as alleged in the claim petition hence, need not to be repeated again.

4. Parties were given opportunity to lead evidence. In support of his case, one of workmen Rajinder Kumar has proved his affidavit Ex.WW1 and documents Ex.W1 to Ex.W6. This witness has accepted in his cross-examination that the petition pending before the Hon'ble High Court was instituted prior to the present claim petition for challenging the action of NIT for adopting outsourcing policy. This witness has further accepted that institute had not adopted outsource person as computer operator directly or on contractual basis since implementation of policy for outsourcing employees. This witness has accepted that the essential qualification for the post of computer operator on contractual basis was +2 and institute are paying wages to them at DC rate for the post of computer operator with qualification of 10+2 but institute are not giving them wages on experience basis. Thus, it is crystal clear from the evidence of workman Rajinder Kumar that he along with other workmen are appointed by virtue of notification of the institute advertisement in which qualification was mentioned for the contractual computer operator as 10+2 and not as graduate.

5. Management has submitted affidavit of Vishnu Kaushik, Superintendent(General Section), National Institute of Technoloty, who has proved his afidavit as MW1/A and stated that the terms and conditions of the services of the workmen has been duly published in the advertisement, which is on record. This witness has honestly admitted that the management is bound to the terms and conditions mentioned in the advertisement. This witness has expressed his inability to tell whether workmen were employed in the year 2010 or before but admitted that workmen are rendering their services at the rate prescribed by the DC Kurukshetra for the year 2018-2019. This witness is unable to tell whether any computer operator was with the management from 01.01.2014 to 26.01.2014. Thus, according to this witness, the workmen are engaged as computer operator as per advertisement published by the NIT-management and the qualification of the computer operator was 10+2 against which these workmen were initially engaged by issuing letters.

6. I have heard Sh. Raghav Sharma, learned Counsel for the workman and Sh. Amarjit Singh Virk, learned counsel for the management and perused the file carefully.

7. Before averting to the real controversy between the parties, I am of the opinion that those facts are required to be mentioned which are admitted between the parties. There is no dispute that the workmen are appointed by the Nit Institute by virtue of advertisement no.18/2013 and qualification for the short term contract employment was 10+2 which is admitted by the workmen Rajinder Kumar during his cross-examination by the management-counsel. This is also not disputed that payment has to be made as per DC rate prescribed by Kurukshetra D.C. It is also not disputed that workmen have filed a petition before the Hon'ble High Court regarding the decision of management to employ the computer operator on contractual basis through outsource agency which is still pending before the Hon'ble Punjab & Haryana High Court. Parties are also amenable to the facts that payments are made to these workmen as per DC rate fixed by the DC Kurukshetra and workmen are rendering their services as per the interim order of the Hon'ble High Court passed in CWP No.12126/2014.

8. The controversy which revolve between the parties is the qualification of the respective claimants and their experience of 4-7 years which are differentiated for the purpose of payment by the DC Kurukshetra. So far as the initial appointment of the workmen are concerned, witness of the management Vishnu Soni has expressed his inability to tell this Tribunal whether these workmen are rendering their services before 2010 while workmen have alleged in their rejoinder the exact date of their appointment against their respective name in Para 4 of the replication/Rejoinder. For example, the date of joining of Sudarshan Singh-09.06.2010, Kishore Kumar-01.03.2010, Rajender Kumar-30.07.2012, Johny Saini-12.09.2011, Kanta Kumari-12.09.2012 and Vijay Negi-19.01.2011. Management-counsel has not cross-examined the witness Rajender Kumar on this issue, which is mentioned in Para 4 of rejoinder and supported by affidavit. Experience certificate filed by the workman as Ex.W1(colly) also fortifies the facts mentioned in the replication of the workmen regarding the joining of services. Thus, the facts which are neither denied nor controverted by the management regarding the initial appointment is taken as proved.

9. The question, which is relevant for answering the reference is qualification of the workmen and their respective experience for rendering their services in management. So far as the educational qualification is concerned, witness Rajender Kumar has stated that he is MSC post graduate but nothing is attached by these workmen along with their claim petition or affidavit filed as evidence relating to the certificate of qualification. It is pertinent to mention that it is not disputed that these workmen were appointed as per advertisement of the management in the year 2013 as per 10+2 qualification hence, the demand of workmen for payment of wages as per their graduation qualification has no force in the light of the advertisement of the management as well as their appointments letter Ex.R-2(colly) which are on record. But so far as the question pertaining to their experience is concerned, there is no doubt that they are rendering their service from the year 2010-11 with the management as is crystal clear from the experience certificate issued by the

Deputy Registrar(GA & Legal) of the management as per Ex.W1(colly). This is also not disputed that workmen are still rendering their services by virtue of order of the Hon'ble High Court since their initial appointment thus, they have completed 4 to 7 years or even more that 7 years of service with the NIT-management and have the experience of 4 to 7 years or even more as the case may be.

10. Learned counsel of management during the course of argument argued that management has no objection to pay the arrears in the light of their respective experience of the workmen if it is ordered by virtue of their engagement having 10+2 qualification from the year of the advertisement. Workman counsel also of the consonance with this fact admitted by the management-counsel during the course of argument. Even on the basis of evidence which is on record, it is crystal clear that they are rendering their services by virtue of advertisement in which prescribed qualification was 10+2 hence they are entitled as wages on the basis of 10+2 qualification on the basis of DC rate of Kurukshetra from the year of advertisement. So far as the position before the advertisement by the management is concerned, there is nothing on record to prove that on what basis, workmen were appointed because there is nothing on record in the form of documents submitted either by the workmen or by the management.

11. Having gone through the above factual and admitted position between the parties, this Tribunal is of the considered opinion that respondent-institution is under obligation to pay the wages on the basis of experience, qualification of 10+2 as fixed by the DC Kurukshetra from time to time from March 2014 onwards till the date of its realization. Hence, management of NIT Kurukshetra is directed to pay the arrears of DC rate on the basis of 10+2 qualification coupled with experience of workmen from March 2014 onwards within 4 months and the reference is answered accordingly.

A. K. SINGH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2185.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स रजिस्ट्रार, राष्ट्रीय प्रौद्योगिकी संस्थान, डीम्ड विश्वविद्यालय, कुरुक्षेत्र, हरियाना और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय – चंडीगढ़ के पंचाट (संदर्भ सं. 63/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुए थे।

[सं. एल-42012/226/2015-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2185.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 63/2015) of the Central Government Industrial Tribunal-cum-Labour Court-2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Registrar, National Institute of Technology, Deemed University, Kurukshetra, (Haryana) & Others, and their workmen which were received by the Central Government on 16.12.2019.

[No. L-42012/226/2015-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 63/2015

Registered on:-25.02.2016

Vikram Pal S/o Baljeet Singh, R/o Vill-Shamshipur,
The-Thanesar, Kurukshetra-136118. …Workman

Versus

1. Registrar, National Institute of Technology, Deemed University, Kurukshetra, near Kurukshetra.
2. HOD/Chairman, Computer Engineering Deptt., NIT,
Deemed University, Kurukshetra. …Respondents/Managements

AWARD

Passed on:-03.12.2019

Central Government vide Notification No. L-42012/226/2015-IR(DU) Dated 17.02.2016, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of the management No.1 Registrar, National Institute of Technology and Management No. 2 HOD/Chairman, Computer Engineering Department, National Institute of Technology, Deemed University, Kurukshetra, in terminating the services of the workman Sh. Vikram Pal S/o Baljit Singh is legal and justified? If not, what relief the workman is entitled to and from which date?"**

1. Both the parties were put to notice and claimant/workman filed statement of claim with the averment that he was employed by the management on 04.04.2009 on the post of Mali-cum-Beldar on contract basis as per the D.C. Rates in the Department of Business Administration, NIT Kurukshetra, after following the due procedure and recruitment of selection without any appointment letter. Subsequently, Government of India enacted National Institute of Technology Act, 2007 and the workman continued to work in NIT in various capacity of Mali, Beldar and Farash from August 2010 and remained in continuing service till 27.05.2013. Thereafter, break in service was given for the first time since the initial appointment on 04.04.2009. Subsequently, by virtue of the advertisement notice no.18/2013 and subsequent interview conducted by the management he was appointed on 07.08.2013 as Lab Attendant on contract basis for the period of 6 months by issuing letter. Accordingly, the workman joined duty on 08.08.2013 and continued to work till 30.06.2014 by virtue of extension given to the workman by the management. Workman was not allowed to work after 30.06.2014 without giving any notice and issuing letter of removal/termination of the services. There is no provision in the first statute regarding outsourcing the services of the staff to be appointed on contract basis and in violation of sub-Clause 16 of Clause 23 and Clause 27 the services of the workman is terminated by the management. This is also the violation of Section 25-F of the Industrial Disputes Act, 1947. The engagement of contractor M/s Radha Krishan Cooperative L/C Society Ltd. Kurukshetra, from 01.08.2014 and termination of the services of the workman along with other persons employed on contract basis is against the provisions of law. It is therefore prayed that the services of the workman be regularized as Lab Attendant in NIT Kurukshetra, with the consequential benefits, continuity of service and past wages for the intervening period till the date of joining.

2. Management has filed its written statement, alleging therein that the Government of India, MHRD framed the first statutes for all the NITs and the same was notified and the NIT Kurukshetra is also governed by the same Act as well as first statutes. There is no post of Lab Attendant existed in the institute however, as per the decision of Board of Governors, held in 32nd meeting on 03.01.2014, it was decided that institute has to enter into a service-contract after quantifying the work with the reputed service contractor by inviting open tenders and following all the formalities, M/s Radha Krishan Cooperative L/C Society Ltd. Kurukshetra, is awarded contract for outsourcing employees from 01.08.2014 to 31.07.2015 as per service contract Annexure R-3. Hence, all the persons working earlier on contract basis on DC rate as Lab Attendants have been relieved on 30.06.2014. It is further stated that claimant does not fall within the definition of workman by virtue of employment on contract for limited period. It is denied that claimant was engaged continuously upto 30.06.2014. The Department of Business Administration was established by the institute in the year 2006 under self-finance mode and all the appointments of this department faculty and non-faculty is made on short term basis. The workman was never engaged continuously upto 27.05.2013 as such, no question of inadvertently in break in service as alleged in the claim petition. In view of the above facts, the petition is not maintainable and is liable to be dismissed with cost.

3. Workman has filed its replication, alleging therein that the workman is authorized to be regularized and management has violated Section 25-F of the Industrial Disputes Act as well as by virtue of violation of principle of natural justice. Remaining facts are same as mentioned in the claim petition hence, need not to be repeated again.

4. Parties were given opportunity to lead evidence. Workman Vikram Pal after filing his affidavit did not turn up before the Tribunal to get cross-examined by the learned counsel of management. Thus, affidavit filed by the workman Vikram Pal could not be deemed to be evidence as defined under the Evidence Act.

5. Learned counsel of management did not produce any evidence through affidavit of the witness alleging that this is a case of no evidence as workman has not produced himself for cross-examination.

6. I have heard the learned counsel of management in the absence of workman as well as his learned counsel and perused the file and documents which are on record.

7. Perusal of the reference dated 17.02.2016 reveals that it is referred to find out the order of termination by the Registrar, National Institute of Technology, Kurukshetra and management HOD/Chairman, Computer Engineering Department with respect to workman/claimant to be legal and justified. The perusal of the zimini orders reveal that in the last limb of the proceeding for evidence of parties, workman Vikram Pal, did not turn up for cross-examination after submitting his affidavit as evidence, resulting the closer of his evidence by the Tribunal on 17.05.2019. It is true that Evidence Act is not strictly applicable with respect to the cases liable to be decided under the Industrial Disputes Act, but it is equally true that such an affidavit could not be read in evidence regarding which the person who has submitted affidavit does not produce himself for cross-examination. Admittedly, workman did not turn up before the Tribunal to be cross-examined by the management-counsel, resulting the affidavit filed by the workman has redundant in the eye of law and making the case virtually of no evidence.

8. By virtue of pleading, claim statement as well as written statement filed by the respective parties, there is no dispute that there existed relationship of employer and employee even though by virtue of employment on contract basis for certain period, which was subsequently extended. It is also not disputed that the services of the workman came to an end by virtue of the engagement of M/s Radha Krishan Cooperative L/C Society Ltd. Kurukshetra, as per the decision of the National Institute of Technology-Administration. The workman has placed reliance on Clause No.27 which runs as follow as mentioned in Para 5 of the claim petition:-

> ***"(1) The services of a temporary employee shall be liable to be terminated at any time by notice of one month in writing given either by the employee to the appointing authority or by the appointing authority to the employee.***
>
> ***(2) The other terms and conditions of service of such employees shall be such as may be specified by the appointing authority in his letter of appointment.***

9. It appears that workman has based his claim on sub-clause 27(1) which requires one month notice in writing before termination of temporary employee but sub-clause 1 is clarified by sub-clause 2 in which it is mentioned that terms and conditions of service of such employee shall be such as may be specified by the appointing authority in his letter of appointment. Workman has filed photocopy of appointment letter as Annexure D-3 dated 07.08.2013 which is a document admitted between the parties. Conditions mentioned in the appointment letter in column 5, 6 and 7 are relevant which deal with the terms and conditions of employment. It is mentioned that engagement can be dispensed with/without notice at any time and even before the expiry of the contract. Similarly, condition 6 states that engagement shall stand terminated on the last day of work of contract and on this date after completion of the work, workman stands relieved. The condition mentioned in column 7 states that this contractual engagement is not an employment in any manner but only a contract of work. Thus, going through the above conditions mentioned in the appointment letter of workman itself reveals that there is no pre-requirement of notice or retrenchment compensation in lieu of the notice as is statutory in Section 25 of the Industrial Disputes Act, 1947.

10. Having gone through the above facts and evidence on record is of the opinion that relieving of the workman by virtue of the engagement on 04.04.2009 following without due process cannot be deemed to be illegal or unjustified as is alleged by the workman in his claim petition. In the absence of any cogent evidence, this Tribunal is of the considered opinion that the workman/claimant has miserably failed to prove that his services were illegally terminated by the management w.e.f. 30.06.2014. Hence, award is answered accordingly.

A. K. SINGH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2019

का.आ. 2186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, बीएसएनएल, अंबाला कैंट हरियाना और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय – चंडीगढ़ के पंचाट (संदर्भ सं. 125/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुए थे ।

[सं. एल-42025/07/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 16th December, 2019

S.O. 2186.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 125/2018) of the Central Government Industrial Tribunal-cum-Labour Court-2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, BSNL, Ambala Cantt (Haryana) & Others, and their workmen which were received by the Central Government on 16.12.2019.

[No. L-42025/07/2019-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No.125/2018

Registered on 03.04.2018

Satya Parkash S/o Malkhan Singh, Opp. 2681, Hari Palace Cinema,
Ambala City, Haryana-133003. …Workman

Versus

1. The General Manager, BSNL, Mall Road, Ambala Cantt.
2. The Sub-Divisional Engineer(P) Main, BSNL, Mall Road, Ambala Cantt. …Respondents

AWARD

Passed on:-02.12.2019

1. The workman has directly filed this claim petition under Section 2-A of the Industrial Disputes Act, 1947, alleging therein that he had joined the services of the Sub-Divisional Engineer(P) Main, BSNL, Mall Road, Ambala City, in the month of April 2005 as helper and later on worked as Cable Jointer till the date of illegal termination from the services on 01.07.2017. The workman was never given any weekly off and the management used to take work for 12 hours daily almost 30 days in the month. The record of the management showed working only of 20-21 days in a month. The actual rate of wages of workman was Rs.11,000/- whereas the management used to show less wages on the record after deductions of EPF and ESI contributions. After the illegal termination, the workman was forced to approach the office of Deputy Commissioner, Ambala, who marked the complaint to Assistant Labour Commissioner, Ambala. The workman approached the management on the assurance before the Assistant Labour Commissioner, Ambala to pay the wages of the workman and taken back on duty but they refused to take back on duty unless an unlawful written undertaking was given by him. The termination of the services of the workman without complying the provisions of Section 25-F and 25-G of the I.D. Act is illegal and the workman is entitled for reinstatement in service with continuity of service with all service benefits. The job still exists in the respondent-company till day and the juniors to the workman have been retained in service in violation of Section 25-G of the Act. Hence, it is prayed that an award in respect of reinstatement with full back wages be passed along with 12% interest in favour of the workman.

2. Management has filed its written statement, alleging therein that the workman was not directly engaged by the management as the work of cable jointing for maintenance of underground cable was getting performed through outsource contractors. It is denied that workman was engaged by BSNL initially as helper and terminated on 01.07.2017 as is alleged in the claim petition. The claimant/workman has neither appended any letter of appointment nor have attached any letter of termination. There is no relation of workman and management and the complaint have been filed just to harass the management. The management denied the remaining paras of the claim petition completely with assertion that no representative of the management appeared before the ALC Ambala to pay compensation to the workman or agreed to take workman on duty. The questions of violation of Section 25-F and 25-G are not attracted because the workman was not the employee of the management and question of reinstatement is beyond scope through the claim petition. It is therefore prayed that the claim of the claimant/workman be dismissed being devoid of merit. Management has filed photocopy of agreements entered into between the management and respective contractors.

3. During the pendency of the proceedings before this Tribunal, at the stage of evidence workman Satya Parkash submitted an application that he does not want to pursue the claim petition and wants to withdraw the same.

4. Heard the AR of the workman and management. Workman does not want to contest the case and has made a statement that he want withdrawal the claim petition as such, reference under question became infructuous hence, claim petition is dismissed as withdrawn.

A. K. SINGH, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2187.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स अध्यक्ष, भारतीय पुरातत्व सर्वेक्षण, बेल्लारी, बंगलौर और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 03/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुए थे ।

[सं. एल-42011/172/2015-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 17th December, 2019

S.O. 2187.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 03/2016) of the Central Government Industrial Tribunal-cum-Labour Court- Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to The President, Archaeological Survey of India,Hospet,Bellary (KARNATAKA) & Others, and their workmen which were received by the Central Government on 17.12.2019.

[No. L-42011/172/2015-IR (DU)]

V. K.THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 10TH DECEMBER 2019

PRESENT : JUSTICE SMT.RATNAKALA, Presiding Officer

CR 03/2016

I Party	**II Party**
The President, Archaeological Survey of India Karmikara Sangha, Kamalapur, Kamalapur Post, Hospet, Bellary - 583 221.	The Dy. Supdt. Archaeologist, Archaeological Survey of India, Hampi Circle, Kamalapur Post, Hospet, Bellary - 583 221.

Appearance

Advocate for I Party : Mr. Muralidhara

AWARD

The Central Government vide Order No. L-42011/172/2015-IR(DU) dated 29.12.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of the management of Archaeological Survey of India, Kamalapur, Hampi, represented by its Dy. Supt. Archaeologist, in not implementing the 1/30th minimum pay scale as was directed in OM No. 49014/2/86-Estt(C) dated 07.06.1988 to the casual workers working under ASI, Kamalapur is fair, legal, proper and justified? If not, to what relief the said workmen are entitled to?"**

1. The Union has espoused the cause of the Casual Workers working with the 2nd Party. Their case is,

There are around 230 workmen working with the 2nd Party for last 20-25 years continuously at Hampi Conservation Area. They are deprived of the benefits of 1/30th of Minimum Pay and Dearness Allowance as per Office Memorandum No. 49014/2/86-Estt(C) dated 07.06.1988 issued by Government of India, Ministry of Personnel Public Grievances and Pensions, New Delhi. The Ministry issued guidelines relating to the casual workers which inter alia provided that where the nature of work entrusted to casual workers and regular workers is the same, the casual workers may be paid at the

rate of 1/30th of pay at the Minimum of the relevant pay scales and Dearness Allowance for the work of 8 hours. The above guidelines are applicable to the casual workers working at Hampi Conservation Project as they are working in par with regular workers for 8 hours in a day. The 2nd Party has implemented the O.M in the case of casual workers in other units but did not implement the same in respect of workers at Hampi Conservation Area; it is a discriminatory practice amounting to unfair labour practice. Aggrieved by the same the workmen resolved to go on strike to press for implementation. In the light of the notice of strike the Regional Labour Commissioner (C), Bellary initiated Conciliation Proceedings; during the Conciliation meeting 2nd Party dodged their demand, they have stated that Scheme has ceased to exist, its life was only 6 months, but it is a false statement.

2. The 2nd Party though represented by its counsel has not contested the claim.

3. On behalf of the 1st Party Union their General Secretary filed his affidavit evidence and has marked the copy of the Review Policy pertaining to Recruitment of Casual labourers and daily wagers as Ex W-1. Ex W-2 is an office order dated 11.05.2009 issued by Government of India, Archaeological Survey of India, instructing to all the Circle / Branch Office engaging casual workers to make payment strictly in accordance with the Rules laid down by DOPT (O.M No. F49014/2/86/Estt.(C) dated 07.06.1988); Ex W-3 dated 31.12.2009 is issued in continuation of Ex W-2 calling for implementation Report of Ex W-2; Ex W-4 is the letter addressed to the Superintending Archaeologist of 2nd Party Bangalore to take action for awarding the rate of 1/30th of the pay at the Minimum of the relevant pay scale + Dearness Allowance for work of 8 hours a day in respect of eligible workers in accordance with the DOPT's guidelines.

4. In the absence of anything contrary to the above material it is inevitable to hold that the inaction of the Management in implementing the direction of OM No. 49014/2/86-Estt(C) dated 07.06.1988 is not justified. All the eligible casual workers working at Hampi Conservation Area shall be paid monetary benefit as per the guidelines with effect from the date of the guidelines.

AWARD

The reference is accepted.

The action of the management of Archaeological Survey of India, Kamalapur, Hampi in not implementing 1/30th Minimum pay scale as directed in OM No. 49014/2/86- Estt(C) dated 07.06.1998 to the casual workers working under ASI, Kamalapur is not fair, legal, proper or justified.

The 2nd Party is directed to release the monetary benefits in accordance with the guidelines of the above OM to all the workers who have worked since 07.06.1998 forthwith.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 10th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2188.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 16/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/16/2006-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29012/16/2006-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 11TH DECEMBER 2019

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 16/2007

I Party

Sh. Shambe Gowda,
S/o Late Chikke Gowda,
Since Deceased by LR's

(1a) Smt. Javaramma,
W/o Late Shambe Gowda

(1b) Smt. Rathnamma,
D/o. Late Shambe Gowda

(1c) Smt. Chikkamma,
D/o. Late Shambe Gowda

(1d) Smt. Savithramma,
D/o. Late Shambe Gowda

(1e) Sh. Shivaraju,
S/o. Late Shambe Gowda

(1f) Smt. Jayanthi,
D/o. Late Shambe Gowda

(1g) Sh. Ramesh,
S/o. Late Shambe Gowda

(1h) Smt. Latha,
D/o. Late Shambe Gowda

All are residing at
Honnanakoppalu,
Anathi Village and Post,
Bagur Hobli,
Channarayapatna Taluk
Hassan Dist - 573 111.
Karnataka.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G Road,
BANGALORE – 560 001.

Appearance

Advocate for I Party : Mr. K T Govinde Gowda

Advocate for II Party : Mr. L. Venkatarama Reddy

AWARD

The Central Government vide Order No. L-29012/16/2006-IR(M) dated 26.02.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the management of Mysore Minerals Limited is justified in terminating the services/ premature superannuating of the services of Sri. Shambegowda w.e.f. 10.06.1998? If not, to what relief the workman is entitled to?"

1. The dispute was raised by the 1st Party workman Sh. Shambe gowda, who is now expired and represented by his Wife and 7 children / his Class-I Legal heirs.

The claim of the 1st Party is, he joined the service of the 2nd Party on 11.05.1982 at its Mining Unit viz., Byrapura Chromite Mines and later on transferred to Allayanpura Manganese Mines, Nanjanagoodu Taluk, Mysore District as a Mining worker. His date of birth is 11.05.1943 as per the Horoscope maintained by his parents; same is accepted by the 2nd Party for the purpose of all the Statutory Records. Though he was entitled to continue in service up to 11.05.2001, on subjecting him to a medical examination, the 2nd Party refused employment on 10.06.1998 on the ground he has reached superannuation. The Medical Certificate is illegal, and Medical Examination is not held in accordance with the Mining Rules 1955-29(C) i.e., by a doctor of the rank of Assistant Surgeon. His signature is obtained by the 2nd Party Officials on several applications. Several of his co-workers are also terminated on the medical ground of unfitness or over age. One such co-employee namely Smt. K Dundamma preferred a Writ Petition No. 5615/2001 (S-RES) before the Hon'ble High Court of Karnataka, same was allowed on 29.03.2001. The Writ Appeal No. 3460/2001 connected with 3459/2001 preferred against the said order in W.P No. 5615/2001(S-RES) came to be rejected on 12.06.2002. The Employee/ Writ Petitioner prematurely retired was reinstated with back wages and continuity of service. Writ Petitions filed by similarly placed employees in Writ Petition Nos. 26101/2001 C/W W.P No. 23798/2001, 23797/2001 & 23794/2001 against the very same Management were also allowed. The Medical Reports and orders of termination were quashed with a cost payable by the Employer / Mysore Minerals Limited.

2. It is further claimed that, the action of the 2nd Party in terminating the services of the workman prematurely amounts to retrenchment within the meaning of Section 2(oo) of the I.D Act, but without following mandatory provisions of Sec 25(F)(G)(H) and (N) of I.D Act of 1947. The 2nd Party has also violated its own Certified Standing Orders i.e. Mysore Minerals Limited Officers and Employees Conditions of Service, Conduct and Disciplinary Proceedings Rules/Clause, 18 & 24. The workman's Date of birth is not changed by the 2nd Party in the statutory records. The Dismissal order is liable to be set aside with consequential monetary benefits.

3. The counter case of the 2nd Party is,

that the dispute raised is time barred. 1st Party was given 30 days' time to prefer the appeal before the Appellate Medical Board as per rules, but he did not avail the opportunity extended to him. Inspired by the judgments of the Hon'ble High Court in W.P No. 5615/2001 and 26101/2001, he has raised the dispute after a lapse of considerable length of time. The Medical Examination of all the employees and workers working at the Mines Unit was arranged in the year 1997-98 as per the Mines Rules 1955. A team of qualified and Senior Medical Officers from Hutti Gold Mines Limited carried out Medical Examination. He was found aged more than 58 years as per Medical Report. Hence, it was decided to terminate him from service. The 2nd Party Management relieved him from service on the ground of superannuation by settling his terminal benefits. He has received the terminal benefits i.e. EPF, gratuity, leave pension and settled the matter with the 2nd Party without any protest and without any grievance of his rights, hence has no right to raise the dispute. As on the date of reference there was no relationship of employer and employee between the parties. Hence, the reference is bad in law. He is gainfully employed and earning salary.

Both parties have adduced their evidence and submitted their arguments in writing.

4. On behalf of the 2nd Party their Assistant Manager was examined as a witness. Through him attested copy of the 'B Register' pertaining to the 1st Party was marked as Ex M-1. Accordingly, his date of Birth is still maintained as 11.05.1943. During cross examination, the witness identified the Photostat copies of the documents confronted to him as Ex W-1 to Ex W-5. Ex W-1 is the attested copy of the Application for the Employees Welfare Fund Trust, Ex W-2 Termination Order dated 10.06.1998 with retrospective effect from 01.06.1998 on the ground that on his medical examination he is found unsuitable to work as per Form-O issued to him; he was given opportunity to seek re-examination within 80 days; but he did not seek for such re-examination. Ex W-3 is the judgment of the Hon'ble High Court in the matter of Smt. K. Dundamma vs MML (supra). Ex W-4 is the judgment of the Division Bench of the Hon'ble High Court in rejecting the appeal preferred by the Management challenging the order at Ex W-3. Ex W-5 is the common order passed by the Hon'ble High Court in the Writ Petitions filed by similarly placed employees of the 2nd Party whereby the order of termination which were under challenge were all quashed.

It was brought out during the cross examination of the witness that no safety measures and welfare provisions as required by the Mines Rules are provided for the Mining workers; in the year 1995-1996 the 2nd Party entrusted the Mining work to a Private Company and suffered loss of 21 crores in Shimoga and Hassan Districts; having suffered loss they decided to reduce the number of workers and Medical Examination of the mining workers was resorted. The 2nd Party has its own Certified Standing Order i.e., Mysore Mineral Limited Officers and Employees' Conditions of Service Conduct and Disciplinary Proceedings Rules.

5. As per clause 18.3 of the Certified Standing Orders of the 2nd Party, the change in the date of birth as entered in the Company's Statutory Record can only be effected by a judgment of a Competent Court. Had if the 1st Party continued in service up to his superannuation, he would have been in service up to 2001. Admittedly it was an en-masse termination of employees on the ground of superannuation or physical unfitness. The Hon'ble High Court has already quashed similar Medical Certificates issued to the employees.

6. Except the self-serving statement of MW-1 no document is placed on record that the Medical Examination is conducted by the qualified Doctors in accordance with the Rule 29-B of the Mines Rules 1955. The disputed Medical Certificate is not made available by both parties. There is no documentary proof that the 1st Party was informed to prefer an appeal before the Appellate Medical Board if he was aggrieved by the Medical Report. The 2nd Party without addressing the question raised by the 1st Party workman against illegal Medical Examination would contend that having accepted the terminal benefits and having severed his relationship, his claim cannot be sustained.

7. MW-1 during cross examination was ignorant as to whether change of age as per the Medical Certificate was intimated to the EPF Authority. He further admitted that the Termination Order was not annexed with the Medical Certificate which is in dispute in this reference. There was no evidence from the 2nd Party regarding the age of the 1st Party as assessed by the Medical Officer or the opinion of the Medical Officer about his medical unfitness. The 1st Party due to ignorance, illiteracy or for want of information might not have challenged the Medical Report before the Appellate Medical Board, but that cannot legalise the action of premature superannuation / termination effected on the basis of medical report which was basically not in consonance with the procedure contemplated in rules (supra) applicable to them.

8. The action of the 2nd Party is not justified for another reason also that, they being the establishment having workforce exceeding thousands if were to retrench the workmen due to their financial crunch, they could not have done so, without complying the mandate of section 25-N of 'the Act', which they have omitted. If the refusal of employment to the workman is to be termed as retirement, it is a pre-retirement at the pleasure of the employer which is definitely illegal. If it is to be termed as retrenchment then also it is vitiated for not complying the mandatory provisions of section 25-F, G, H and N of the I.D Act. Wherefore the action of the 2nd Party in terminating his service/premature superannuating w.e.f 10.06.1998 is neither justified nor legal.

9. Having held that the termination / premature superannuation illegal, the next question is, the relief that could be moulded in favour of the Legal Heirs of the deceased. The deceased workman has filed his affidavit evidence stating that except his employment with the 2nd Party he had no other source of income or alternate employment. However, he was not cross examined. Further his son has filed affidavit evidence.

10. While moulding relief I have taken note of the fact that deceased workman had accepted the terminal benefits and did not challenge his illegal removal for 9 years. There appears to be some merit in the contention of the 2nd Party that, inspired by the judgment of the Hon'ble High Court in W.P No. 5615/2001 and other cases he raised the present dispute. However, a balance is to be struck between the two. The 2nd Party has to be reminded that an aggrieved workman cannot be non-suited from the reliefs available under the Welfare Legislature of 'the Act' for delaying in raising Industrial Dispute. Moreover, the reference order, on its legality was not challenged by the 2nd Party before the Appropriate Forum. In the opinion of this Tribunal, ends of justice would be met by awarding a lump sum compensation of Rs. 30,000/- (Rupees Thirty Thousand Only) to Smt. Javaramma Wife of late Sh. Shambe Gowda since all their children are majors.

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in terminating the services / premature superannuating of the services of lateSh. Shambegowda w.e.f. 10.06.1998 is not justified.

The 2nd Party is directed to pay Rs. 30,000/- (Rupees Thirty Thousand Only) to Smt. Javaramma Wife of deceased 1st Party workman Sh. Shambegowda within 2 months from the date of publication of the Award in the Official Gazette, failing which the amount shall carry future interest at the rate of 6% per annum.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 11th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2189.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 79/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/16/2007-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29012/16/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 11TH DECEMBER 2019

PRESENT: JUSTICE SMT. RATNAKALA, Presiding Officer

CR 79/2007

I Party	**II Party**
Smt. Rangamma, W/o Late Devagaiah, Hebalu Village Bathikere Post, Nuggehalli Hobli, Channarayapatna Taluk, Hassan Distt - 573 131. (Karnataka).	The Managing Director, Mysore Minerals Limited, No. 39, M. G Road, BANGALORE - 560 001.

Appearance

Advocate for I Party : Mr. K T Govinde Gowda

Advocate for II Party : Mr. T K Vedamurthy

AWARD

The Central Government vide Order No. L-29012/16/2007-IR(M) dated 16.05.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the management of Mysore Minerals Limited is justified in terminating the services/ premature superannuating of the services of Smt. Rangamma w.e.f. 16.04.1998? If not, to what relief the workman is entitled to?"**

1. The dispute is raised by the 1st Party workman Smt. Rangamma W/o Late Devagaiah, who is believed to be expired but her legal heirs are not brought on record. However, the workman had prosecuted her case by filing claim statement and by cross examining the management witness. Written argument submitted by the learned counsel who represented the workman is on record.

2. The claim of the 1st Party is,

she joined the service of the 2nd Party on 03.06.1979 at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District as a Mining worker under Token No. 69. Her date of birth is 03.06.1948 as per the Horoscope maintained by her parents; same is accepted by the 2nd Party for the purpose of all the Statutory Records. Though she was entitled to continue in service up to 03.06.2006, on subjecting her to a Medical Examination, the 2nd Party refused employment on 16.04.1998. The Medical Certificate is illegal, and Medical Examination is not held in accordance with the Mining Rules 1955-29(C) i.e., by a doctor of the rank of Assistant Surgeon. Her signature is obtained by the 2nd Party Officials on several applications. Several of her co-workers are also terminated on the medical ground of unfitness or over age. One such co-employee namely Smt. K Dundamma preferred a Writ Petition No. 5615/2001 (S-RES) before the Hon'ble High Court of Karnataka, same was allowed on 29.03.2001. The Writ Appeal No. 3460/2001 connected with 3459/2001 preferred against the said order in W.P No. 5615/2001 (S-RES) came to be rejected on 12.06.2002. The Employee / Writ Petitioner prematurely retired was reinstated with back wages and continuity of service. Writ Petitions filed by similarly placed employees in Writ Petition Nos. 26101/2001 C/W W.P No. 23798/2001, 23797/2001 & 23794/2001 against the very same Management were also allowed. The Medical Reports and orders of termination were quashed with a cost payable by the Employer / Mysore Minerals Limited.

3. It is further claimed that, the action of the 2nd Party in terminating the services of the workman prematurely amounts to retrenchment within the meaning of Section 2(oo) of 'the Act', but without following mandatory provisions of Sec 25(F)(G)(H) and (N) of I.D Act of 1947. The 2nd Party has also violated its own Certified Standing Orders i.e. Mysore Minerals Limited Officers and Employees Conditions of Service, Conduct and Disciplinary Proceedings Rules/Clause, 18 & 24. The workman's Date of birth is not changed by the 2nd Party in the statutory records. The Dismissal order is liable to be set aside with consequential monetary benefits.

4. The counter case of the 2nd Party is,

that the dispute raised is time barred. 1st Party was given 30 days' time to prefer the appeal before the Appellate Medical Board as per rules, but she did not avail the opportunity extended to her. Inspired by the judgments of the Hon'ble High Court in W.P No. 5615/2001 and 26101/2001, she has raised the dispute after a lapse of considerable length of time. The Medical Examination of all the employees and workers working at the Mines Unit was arranged as per the Mines Rules 1955. A team of qualified and Senior Medical Officers from Hutti Gold Mines Limited carried out Medical Examination. She was found aged more than 58 years as per Medical Report. Hence, it was decided to terminate her from service. The 2nd Party Management relieved her from service on the ground of superannuation by settling her terminal benefits. She has received the terminal benefits i.e. EPF, gratuity, leave pension and settled the matter with the 2nd Party without any protest and without any grievance of her rights, hence has no right to raise the dispute. As on the date of reference there was no relationship of employer and employee between the parties. Hence, the reference is bad in law. She is gainfully employed and earning salary.

5. On behalf of the 2nd Party their Assistant Manager was examined as a witness. Through him attested copy of the 'B Register' pertaining to the 1st Party was marked as Ex M-1. Accordingly, her date of Birth is 02.11.1948. During his cross examination, the witness identified the Photostat copies of the documents confronted to him as Ex W-1 to Ex W-5. Ex W-1 is the Form 'O' Report of the Medical Examiner; Ex W-2 is the Termination Order dated 22.05.1998; Ex W-3 is the judgment of the Hon'ble High Court in the matter of Smt. K. Dundamma vs MML (supra); Ex W-4 is the judgment of the Division Bench of the Hon'ble High Court in rejecting the appeal preferred by the Management challenging the order at Ex W-3; Ex W-5 is the common order passed by the Hon'ble High Court in the Writ Petitions filed by similarly placed employees of the 2nd Party whereby the order of termination which were under challenge were all quashed.

It was brought out during the cross examination of the witness that no safety measures and welfare provisions as required by the Mines Rules are provided for the Mining workers; in the year 1995-1996 the 2nd Party entrusted the Mining work to a Private Company and suffered loss of 21 crores in Shimoga and Hassan Districts; having suffered loss they decided to reduce the number of workers and Medical Examination of the mining workers was resorted. The 2nd Party has its own Certified Standing Order i.e., Mysore Mineral Limited Officers and Employees' Conditions of Service Conduct and Disciplinary Proceedings Rules. As per clause 18 and 24 of the Certified Standing Order any termination has to be followed by enquiry along with 3 months' notice pay. But no such notice pay was paid to the 1st Party workman.

6. As per clause 18.3 of the Certified Standing Orders of the 2nd Party, the change in the date of birth as entered in the Company's Statutory Record can only be effected by a judgment of a Competent Court; Had if the workman was allowed to serve until superannuation, she would have continued in service upto 02.06.2006. Admittedly it was an en-masse termination of employees on the ground of superannuation or physical unfitness. The Hon'ble High Court has already quashed similar Medical Certificates issued to the employees.

7. Except the self-serving statement of MW-1 no document is placed on record that the Medical Examination is conducted by the qualified Doctors in accordance with the Rule 29-B of the Mines Rules 1955. The disputed Medical Certificate is not made available by both parties. There is no documentary proof that the 1st Party was informed to prefer an appeal before the Appellate Medical Board if she was aggrieved by the Medical Report. The 2nd Party without addressing the question raised by the 1st Party workman against illegal Medical Examination would contend that having accepted the terminal benefits and having severed her relationship, her claim cannot be sustained.

8. It is a point to be noted that the 2nd Party contended that the medical examination was conducted as per the settlement arrived between the Management and the Mysore Minerals Employees Association by qualified Senior Medical Officers. MW-1 was ignorant of the fact whether said Mysore Minerals Employees Association represented clerical staff of the MML only. However, he had admitted that the Mining Workers had formed Byrapura Chromite Mines Union. No document is placed to establish the bonafides of subjecting the employees' en-masse for medical examination. As per the admission of MW-1 during 1998 there were 4,000 Mining Workers in all the 40 mining units of the 2nd Party in Karnataka and out of them 2,000 were working in various mines of Hassan. They thought of reducing the number of workers having suffered financial crisis, when the mining was entrusted to a private party. It was at that juncture medical examination of all the mining workers were conducted through the Doctors from Hutti Gold Mines. It is not made known by the 2nd Party that how and for what reason the 1st Party workman was found physically unfit to work in the Mine as on the day of her Medical Examination. Ex W-1 is illegible, however with great difficulty it may be

read that she was certified as suffering from 'over age'. The 1st Party due to her ignorance, illiteracy or for want of information might not have challenged the Medical Report before the Appellate Medical Board, but that cannot legalise the action of premature superannuation / termination effected on the basis of Medical Report which was basically not in consonance with the procedure contemplated in rules (supra) applicable to them.

9. The action of the 2nd Party is not justified for another reason also that, they being the establishment having workforce exceeding thousands, if were to retrench the workmen due to their financial crunch, they could not have done so, without complying the mandate of sec 25-N of 'the Act', which they have omitted. If the refusal of employment to the workman is to be termed as retirement, it is a pre-retirement at the pleasure of the employer which is definitely illegal. If it is to be termed as retrenchment then also it is vitiated for not complying the mandatory provisions of section 25-F, G, H and N of 'the Act'. Wherefore the action of the 2nd Party in terminating her service/prematurely superannuating her w.e.f 16.04.1998 is neither justified nor legal.

10. Coming to the question of moulding the relief, on one side there is the cause of the 1st Party workman who lost her avocation, in the mid-way of her career by curtailing her service by 8 years, on the other side there is evidentiary material that, she had accepted the terminal benefits and did not challenge her illegal removal for 9 years. There appears to be some merit in the contention of the 2nd Party that, inspired by the judgment of the Hon'ble High Court in W.P No. 5615/2001 and other cases she raised the present dispute. However, a balance is to be struck between the two. The 2nd Party has to be reminded that an aggrieved workman cannot be non-suited from the reliefs available under the Welfare Legislature of 'the Act' for delaying in raising Industrial Dispute. Moreover the reference order, on its legality was not challenged by the 2nd Party before the Appropriate Forum. In the opinion of this Tribunal, ends of justice would be met by awarding a lump sum compensation of Rs. 40,000/- (Rupees Forty Thousand Only).

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in terminating the services / premature superannuating of the services of Smt. Rangamma w.e.f. 16.04.1998 is not justified.

The 2nd Party is directed to pay Rs. 40,000/-(Rupees Forty Thousand Only) to the 1st Party workman Smt. Rangamma. In the event her class-I Legal heirs approach the Authority with necessary documentary proof, they shall be paid the above amount for which the workman was otherwise entitled for.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 11th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2190.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 94/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/20/2007-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 94/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29012/20/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 11TH DECEMBER 2019

PRESENT : JUSTICE SMT.RATNAKALA, Presiding Officer

CR 94/2007

I Party	**II Party**
Sh. K.M. Manjunatha S/o Late Sh. Muddurappa, Kembalu Village and Post, Begur Hobli, Channarayana patna Taluk Hassan Distt - 573 111 (Karnataka).	The Managing Director, Mysore Minerals Limited, No. 39, M.G Road, BANGALORE - 560 001.

Appearance

Advocate for I Party : Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. L. Venkatarama Reddy

AWARD

The Central Government vide Order No. L-29012/20/2007-IR(M) dated 20.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the penalty of dismissal imposed on Sh. K.M Manjunatha w.e.f. 03.08.1999 by the management of Mysore Mineral Limited is just and legal? If not, to what relief the workman is entitled to?"

1. The case of the 1st Party is,

he joined the service of the 2nd Party at its Mining unit viz., Goblihalli Mines and later transferred to Ilakkallu Granite Mines, Hunagoonda Taluk, Bagalkote District as a Mining Worker. During the month of 1998 he availed few days of sick leave. His sickness turned into jaundice. He took treatment in local medicine. He requested official of the 2nd Party to sanction leave from 1998 till his recovery. He reported to duty on 15.05.1999; without sanctioning sick leave the 2nd Party refused employment. Though he used to appear for Mine Work he was not provided work. He was orally informed during 1st week of August 1999 that they have terminated his service. Vide Termination Order dated 03.08.1999 they have terminated his service with retrospective effect during the sick leave period w.e.f 01.10.1998 before issuing termination order they have not issued charge sheet and have not conducted enquiry. The action of the 2nd Party is illegal and against the provisions of 'the Act'.

2. The 2nd Party filed the counter statement to the effect that his claim is belated. When subjected for Medical Examination as required under Mines Rules 1955, he was found incapacitated to work in a Mine, since he was aged 58 years on the date of the Medical Examination. As per the Report of expert Medical Examination he was terminated; he was given opportunity to prefer appeal before Appellate Medical Board within 30 days which he has not availed. He has received monetary benefits arising from his termination i.e., EPF, Gratuity, Leave Pension and settled the matter without protest, all his claim allegation are false.

3. The 2nd Party examined their Assistant Manager in support of their contention. It Appears that the cross examination portion of office evidence is cut, copied from some other case and is Pasted in the present case. However, during the further course of cross examination, he identified the dismissal order issued by the 2nd Party on 03.08.1999 marked as Ex W-1 and another office order dated 22.08.2008 extending superannuation of the employees from 58 to 60 years marked as Ex W-2.

The 1st Party workman has adduced rebuttal evidence reiterating his claim, during the cross examination he admits that he has received PF and Gratuity amount. He adduced his further evidence denying the plea of the 2nd Party regarding Medical Examination, Medical Report declaring him medically unfit etc.

4. The 2nd Party have not produced any documentary proof to substantiate their stand of subjecting the workman to Medical Examination under the Mine Rules, and terminating him as per the recommendation of the Medical expert. Instead their own witness has identified the dismissal order dated 03.08.1999 issued to the 1st Party workman. They have not met the allegations averred in the claim statement. Neither they have made effort to prove their case against the workman.

5. It transpires from Ex W-1 that before passing the dismissal order enquiry was initiated and enquiry notice was sent to the Mazdoor by post but he did not attend the enquiry which was fixed on 07.05.1999. Hence, the disciplinary Authority proceeded to pass the Punishment Order. Unfortunately in their counter statement there was no pleading about any call notice being issued calling upon the workman to report to duty or ordering Domestic Enquiry by appointing Enquiry Officer or issue of Enquiry notice to the workman. The document Ex W-1 which is an admitted document contradicts their own pleading and proof. In the circumstance it needs to be inferred that the workman was dismissed from service on the charge of unauthorised absence without issuing charge sheet and without holding Domestic Enquiry.

6. Rule / Clause 24.1 contemplates that the service of a permanent officer / employee can be terminated either by the company or by the Officer / Employee himself by issue of 3 months notice or payment of 3 months' salary in lieu of such notice.

In the matter of imposing major penalty the procedure is contemplated by Rule / Clause 33 which warrants that the employee shall be informed of the allegation on which charges are based, with opportunity for submitting his explanation; if his explanation is not accepted the Disciplinary Authority may hold enquiry by himself or get the enquiry held by any other person. During the enquiry the employee shall be given full opportunity to defend himself by cross examining the witness produced against him and also to adduce his defence evidence.

7. Neither of the above procedures is followed in the present case. There is no material with them to demonstrate that he failed to respond to the enquiry notice and an independent enquiry to probe into the charges was conducted. Wherefore the only possible conclusion is penalty of dismissal imposed on Sh. K.M. Manjunatha by the 2nd Party w.e.f 03.08.1999 is not legal.

Consequently, he is entitled for reinstatement to his original post. As regards to back wages is concerned, he has raised the dispute after a delay of 7 long years now the 2nd Party can't be taxed for the said delay.

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in imposing the penalty of dismissal on Sh. K.M Manjunatha w.e.f. 03.08.1999 is not justified.

The 2nd Party is directed to reinstate the 1st Party workman to his Original Post with continuity of service without back wages.

(Dictated to EPFO (SSA), transcribed by him, corrected and signed by me on 11th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2191.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 95/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/21/2007-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 95/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29012/21/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 11TH DECEMBER 2019

PRESENT : JUSTICE SMT.RATNAKALA, Presiding Officer

CR 95/2007

I Party	**II Party**
Sh. K Pappanna Shetty, S/o Sh. Kalinga Shetty Muddurappa, Janatha Colony, Shanthi Grama Village, Post Hobli, Hassan Taluk & Distt. - 573 220. (Karnataka).	The Managing Director, Mysore Minerals Limited, No.39, M.G Road, BANGALORE - 560 001.

Appearance

Advocate for I Party : Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. L. Venkatarama Reddy

AWARD

The Central Government vide Order No. L-29012/21/2007-IR(M) dated 20.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the penalty of dismissal imposed on Sh. K. Papanna Shetty w.e.f 02.08.2001 by the management of Mysore Minerals Limited is just and legal? If not, to what relief the workman is entitled to?"**

1. The claim of the 1st Party is,

he joined the service of the 2nd Party w.e.f 01.01.1988 at its Mining unit viz., Kunjanoor Granite Mines and later transferred to Kollegala Granite Mines and thereafter to Illakkallu Red Granite Mines, Hunagoonda Taluk, Bagalkote District as a Mining worker. During the month of May 1999 he availed few days of sick leave, he requested for sanction of leave from 15.05.1999 to 09.06.1999. After recovery he reported to duty on 10.06.1999; without sanctioning sick leave the 2nd Party termination his service w.e.f 01.06.1999 but refused to issue orders. They have not issued termination order; no notice of 3 months or 3 months' notice pay is paid to him; when he approached the Mines Manager requesting work the Officials of the 2nd Party obtained his signature on some documents; during the year 2001 he received a letter from MML dated 20.11.2001 along with a cheque for Rs. 868/- towards Bonus for the year 1999-2000; he has not utilised the said cheque. The action of the 2nd Party in terminating him from service without issuing charge sheet and without holding enquiry is highly illegal and against the provision of 'the Act'.

2. The 2nd Party filed their counter to the claim stating that his claim is belated; when subjected for Medical Examination as required under Mines Rules 1955, he was found incapacitated to work in a Mine, since he was aged 58 years on the date of the Medical Examination. As per the Report of Expert Medical Examination he was terminated, he was given opportunity to prefer appeal before Appellate Medical Board within 30 days which he has not availed. He has received monetary benefits arising from his termination i.e., EPF, Gratuity, Leave Pension and settled the matter without protest, all his claim allegation are false.

3. The 2nd Party examined their Assistant Manager in support of their contention. It appears the cross-examination portion of office evidence is copied from some other case and pasted in the present case. However, during the further course of cross examination, he identified the covering letter of the 2nd Party annexed to the Bonus cheque marked as Ex W-1, Ex W-2 is the office order dated 22.08.2008 extending superannuation of the employees from 58 to 60 years.

The 1st Party workman has adduced rebuttal evidence reiterating his claim, during the cross examination he stated that he has received P.F and Gratuity amount. He adduced further evidence denying the plea of the 2nd Party regarding Medical Examination, Medical Report, and declaring him medically unfit etc.

4. The 2nd Party has not produced any documentary proof to substantiate their stand of subjecting the workman to Medical Examination under Mines Rules, and terminating him from service as per the recommendation of the Medical

Expert. Neither they met the allegations averred in the claim statement, nor they made effort to prove their case that he is terminated from service due to overage / medical unfitness.

5. The 2nd Party has not disputed the identity of the workman, their own witness has admitted the covering letter addressed to the 1st Party on 20.11.2001. When it is alleged that they have dispensed with the service without a termination order the burden heavily rests on them either to deny the said allegation or to substantiate such termination, nothing of that sort is done.

6. Rule / Clause 24.1 contemplates that the service of a Permanent Officer / Employee can be terminated either by the Company or by the Officer / Employee himself by issue of 3 months notice or payment of 3 months' salary in lieu of such notice.

In the matter of imposing major penalty, the procedure is contemplated by Rule / Clause 33 which warrants that the employee shall be informed of the allegation on which charges are based with opportunity for submitting his explanation; if his explanation is not accepted, the Disciplinary Authority may hold the enquiry by himself or get the enquiry held by any person. During the enquiry the employee shall be given full opportunity to defend himself by cross examining the witnesses produced against him and also to adduce his defence evidence.

7. Neither of the above is followed in the present case. There is no material with them to demonstrate that he was found medically unfit or superannuated as on the date of Medical Examination. In the given circumstance it is inevitable to hold that he is terminated from service w.e.f 02.08.2001 without following the due process of law. The workman in his claim statement had contended that he is entitled to work in the 2nd Party upto 01.01.2026, but in his additional affidavit evidence filed before this Tribunal on 24.04.2017 he has defined himself as aged 66 years. In the absence of any documents pertaining to his age, his affidavit averments showing his age as 66 years on 24.04.2017 needs to be accepted. If that is so, the workman would have retired in the year 2011, by the illegal dismissal order dated 02.08.2001 he has lost around 10 years of service which now calls for intervention under sec 11 of 'the Act'. Awarding 90% of the back wages from the date of his dismissal till the date of his superannuation along with terminal benefits will do complete justice in the matter.

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in imposing the penalty of dismissal from service on Sh. K Papanna Shetty w.e.f. 02.08.2001 is not legal and not justified.

The 2nd Party is directed to treat the workman as on continuous duty from the date of his dismissal till the date of his superannuation and pay him 90% of the back wages with all terminal benefits.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 11th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2192.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 100/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/26/2007-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2192.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 100/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29012/26/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 11TH DECEMBER 2019

PRESENT : JUSTICE SMT.RATNAKALA, Presiding Officer

CR 100/2007

I Party	**II Party**
Sh. Sanna Rangaiah, S/o Sh. Hosalli Rangaiah, Hullekere Village and Post, Gandasi Hobli, Arasikere Taluk Hassan Distt - 573 119. (Karnataka).	The Managing Director, Mysore Minerals Limited, No. 39, M.G Road, BANGALORE - 560 001.

Appearance

Advocate for I Party : Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. L. Venkatarama Reddy

AWARD

The Central Government vide Order No. L-29012/26/2007-IR(M) dated 21.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of the management of Mysore Minerals Limited in terminating the services/premature superannuating of the services of Sri Sanna Rangaiah w.e.f 30.11.2002 is justified? If not, to what relief the workman is entitled to?"**

1. The case of the 1st Party is, he joined the service of the 2nd Party at its Mining unit viz.,

Haladahalli Mines and later transferred to Thagadur Mines as a Mining Worker during 1986. During the year 2002 he availed sick leave from 30.11.2002 for 9 months. He had requested the Mines Manager for sanction of the sick leave. Without sanctioning the leave, 2nd Party terminated his service vide their order dated 17.06.2003 which he received during first week of July 2003. He is terminated from service without issuing any show cause notice / charge sheet and without holding enquiry and without following due process of law. He approached the 2nd Party requesting for permission to work in the Mines but his effort went in vain. The action of the 2nd Party is highly illegal and against the provisions of 'the Act'.

2. The 2nd Party filed the counter statement to the effect that his claim is belated. When subjected for Medical Examination as required under Mines Rules 1955, he was found incapacitated to work in a Mine, since he was aged 58 years on the date of the Medical Examination. As per the Report of Expert Medical Examination he was terminated, he was given opportunity to prefer appeal before Appellate Medical Board within 30 days which he has not availed. He has received monetary benefits arising from his termination i.e., EPF, Gratuity, Leave Pension and settled the matter without protest, all his claim allegation are false.

3. The 2nd Party examined their Assistant Manager in support of their contention. It appears the cross examination portion of office evidence is copied from some other case and is pasted in the present case. However, during the further course of cross examination, he identified the dismissal order dated 17.06.2003 issued by the 2nd Party for his unauthorised absence from 30.11.2002 as Ex W-1 and another office order dated 22.08.2008 extending superannuation of the employees from 58 to 60 years as Ex W-2.

The 1st Party workman has adduced rebuttal evidence reiterating his claim, during the cross examination he stated that he has received P.F and Gratuity amount. He adduced his further evidence denying the plea of the 2nd Party regarding Medical Examination, Medical Report and declaring him Medically unfit etc.

4. The 2nd Party have not produced any documentary proof to substantiate their stand of subjecting the workman to Medical Examination under Mines Rules, and terminating him as per the recommendation of the Medical Expert. Instead their own witness has identified the dismissal order date 17.06.2003 issued to the 1st Party workman. They have not met the allegations averred in the claim statement. Neither they have made effort to prove their case against the workman.

As per content of exhibit W-1 on his unauthorised absence w.e.f 30.11.2002 the Mines Manager issued memos through RPAD calling upon to report to duty within 7 days, first and second memos were served on him and third one returned with the endorsement 'No such addressee'. Enquiry Officer was appointed scheduling the enquiry to 28.02.2003 and also fixing the venue of the enquiry, the enquiry notice is received by him but he did not attend the enquiry nor did he contact the 2nd Party. The Enquiry Officer has submitted his Report stating that he is a habitual absentee having no interest in the employment, still to give one more opportunity the paper publication was given in the Local News Paper dated 23.04.2003 calling upon the workman to appear before the Enquiry Officer; enquiry notice was also given, but the workman did not attend the enquiry; the Enquiry Officer vide his Report dated 10.05.2003 has reported that he did not attend the enquiry. Hence, it is established that he has no intention to continue in his employment and the allegation stand proved; hence for his unauthorised absence w.e.f 30.11.2002 he is dismissed from service with immediate effect.

5. Rule / Clause 24.1 contemplates that the service of a permanent officer / employee terminated either by the company or by the Officer / Employee himself by issue of 3 months notice or payment of 3 months' salary in lieu of such notice.

In the matter imposing major penalty the procedure is contemplated by Rule / Clause 33 which warrants that the employee shall be informed of the allegation on which charges are based with opportunity for submitting his explanation; if his explanation is not accepted the Disciplinary Authority may hold the enquiry by himself or get the enquiry held by any person. During the Enquiry the employee shall be given full opportunity to defend himself by cross examining the witnesses produced against him and also to adduce his defence evidence.

6. The 2nd Party have not produced anything worth to believe that before imposing the punishment order they had issued call memos, enquiry notice and published the enquiry notice in the News Paper. No documents pertaining to the enquiry is placed on record by them, the only available inference in the circumstance is they have violated the procedures contemplated by their own Service Rules. Wherefore the only possible conclusion is penalty of dismissal imposed on 1st Party Sh. Sanna Rangaiah by the 2nd Party w.e.f 30.11.2002 is not legal. Consequently, he is entitled for reinstatement to his original post. As regard to back wages is concerned, he has raised the dispute after a delay of 5 long years now the 2nd Party can't be taxed for the said delay.

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in terminating the services / premature superannuating of the services of Sh. Sanna Rangaiah w.e.f. 30.11.2002 is not justified.

The 2nd Party is directed to reinstate the 1st Party workman to his Original Post with continuity of service without back wages.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 11th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2193.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 117/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/36/2007-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2193.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 117/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 03.12.2019.

[No. L-29012/36/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 26TH NOVEMBER 2019

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 117/2007

I Party	**II Party**
Sh. H.T. Rangaiah, S/o Late Thibbaiah, Yeragamballi Village, Post and Hobli Yellandoor Taluk, Chamarajanagara District - 571440	The Managing Director, Mysore Minerals Limited, No. 39, M. G Road, BANGALORE – 560 001.

Appearance

Advocate for I Party : Mr. K T Govinde Gowda

Advocate for II Party : Mr. T.K. Vedamurthy

AWARD

The Central Government vide Order No. L-29012/36/2007-IR(M) dated 22.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of the management of M/s Mysore Minerals Ltd. in imposing the punishment of forceful retirement from the services by way of order of discharge dated 28.02.2001 on Shri H.T. Rangaiah, ex-mining worker, Melemala Granite Quarry, Chamaraja Nagar TQ & District of M/s Mysore Minerals Ltd. is legal and justified? If not, to what relief the workman is entitled and from which date?"**

1. The dispute was raised by the 1st Party workman Sh. H.T Rangaiah. His claim is,

he joined the service of the 2nd Party on 25.10.1988 at its Mining Unit at Melemala Granite Quarry, Chamarajanagar Taluk and District as a Mining worker. His date of birth is 26.08.1963 as per the Horoscope maintained by his parents; same is accepted by the 2nd Party for the purpose of all the Statutory Records. Though he was entitled to continue in service up to 26.08.2022, on subjecting him to a medical examination, the 2nd Party refused employment on 28.02.2001. The Medical Certificate is illegal, and Medical Examination is not held in accordance with the Mining Rules 1955-29(C) i.e., by a doctor of the rank of Assistant Surgeon. His signature is obtained by the 2nd Party Officials on several applications. Several of his co-workers are also terminated on the medical ground of unfitness or over age. One such co-employee namely Smt. K Dundamma preferred a Writ Petition No. 5615/2001 (S-RES) before the Hon'ble High Court of Karnataka, same was allowed on 29.03.2001. The Writ Appeal No. 3460/2001 connected with 3459/2001 preferred against the said order in W.P No. 5615/2001 (S-RES) came to be rejected on 12.06.2002. The Employee / Writ Petitioner prematurely retired was reinstated with back wages and continuity of service. Writ Petitions filed by similarly placed employees in Writ Petition Nos. 26101/2001 C/W W.P No. 23798/2001, 23797/2001 & 23794/2001 against the very same Management were also allowed. The Medical Reports and orders of termination were quashed with a cost payable by the Employer / Mysore Minerals Limited.

2. It is further claimed that, the action of the 2nd Party in terminating the services of the workman prematurely amounts to retrenchment within the meaning of Section 2(oo) of the Act, but without following mandatory provisions of Sec 25(F)(G)(H) and (N) of the Act of 1947. The 2nd Party has also violated its own Certified Standing Orders i.e Mysore Minerals Limited Officers and Employees Conditions of Service, Conduct and Disciplinary Proceedings Rules/Clause, 18 & 24. The workman's Date of birth is not changed by the 2nd Party in the statutory records. The Dismissal order is liable to be set aside with consequential monetary benefits.

3. The counter case of the 2nd Party is,

that the dispute raised is time barred. The alleged horoscope is concocted just to make illegal gain; upon intervention of employees union of the 2nd Party, he was subjected to Medical Examination; he was not allowed to work after 28.02.2001 since he had reached the age of superannuation. At no point of time he requested the 2nd Party for reinstatement; considering his age, he is relieved from service on following service rules. The allegations made by him about the Medical Examination are all denied. The Medical Examination was conducted as per the Mines Rules 1955. He is not entitled for any relief as per the provision of Mines Act 1952 and Mines Rules 1955; Employees employed at Mine are required to undergo periodical medical examination to ascertain their physical fitness to work at Mine. In this

context 2nd Party issued circular and subjected the 1st Party for Medical Examination by qualified Medical Officers from Hutti Gold Mines; as per the Report given by the Doctors he was found to be aged more than 58 years; he has not questioned the medical report before the Appellate Medical Board within 30 days as prescribed under the Rules. Now he cannot question the genuineness of the Medical Report.

4. To substantiate their stand 2nd Party examined their Assistant Manager as MW-1.

The 1st Party at whose instance the Industrial Dispute is referred to this Tribunal for adjudication though represented by his counsel has not led rebuttal evidence after the evidence of Management side closed. However, during the cross examination of MW-1 five documents were confronted and admitted by the witness are marked as Ex W-1 to Ex W-5.

5. In his affidavit evidence MW-1 contrary to the pleadings in their counter statement has averred that in view of the acute ill health of the 1st Party there was no alternative but to terminate the services of the 1st Party from the 2nd Party Company.

During his cross examination he admits that the working conditions as per the Mining Act has not been provided at the Mines. He further admits that that no safety measures and welfare provisions as required by the Mines Rules are provided for the Mining workers; in the year 1995-1996 the 2nd Party entrusted the Mining work to a Private Company and suffered loss of 21 crores in Shimoga and Hassan Districts; having suffered loss they decided to reduce the number of workers and Medical Examination of the mining workers was resorted. The 2nd Party has its own Certified Standing Order i.e., Mysore Mineral Limited Officers and Employees' Conditions of Service Conduct and Disciplinary Proceedings Rules.

6. As per clause 18 and 24 of the Certified Standing Orders of the 2nd Party, any termination should be followed by enquiry along with 3 months' notice pay. The termination order was not attached with the copy of the Medical Certificate pertaining to the 1st Party.

7. Except the self-serving statement of MW-1 no document is placed on record that the Medical Examination is conducted by the qualified Doctors in accordance with the Rule 29-B of the Mines Rules 1955. The Medical Certificate marked as Ex W-1 is in a proforma, accordingly the medical examination is said to be have been conducted on 03.02.1998, the column is filled up with illegible handwriting. Vital columns are left blank without indicating whether he is fit or unfit for employment in the Mine. There is no clarity as to whether he shall be permitted or not permitted to carry on his duties during the period. Ex W-2 is the permission accorded to the employees for retirement with effect from the date shown against their name; the name of the 1st Party workman is at Sl. No. 16, his date of birth is shown as 26.08.1963 and he was aged 55 years on the date of medical examination and he is permitted to be retired w.e.f 28.02.2001; Ex W-3 is the judgment of the Hon'ble High Court in the matter of Smt. K. Dundamma vs MML (supra). Ex W-4 is the judgment of the Division Bench of the Hon'ble High Court in rejecting the appeal preferred by the Management challenging the order at Ex W-3. Ex W-5 is the common order passed by the Hon'ble High Court in the Writ Petitions filed by similarly placed employees of the 2nd Party whereby the order of termination which were under challenge were all quashed.

8. There is no clarity in the case of the 2nd Party as to whether the workman was over aged to continue in service or was suffering from any physical disability or illness to serve anymore in the Mine. As per their counter statement pleading, he had crossed 58 years as on the date of medical examination as per Ex W-1 "*he / she appears to be 55 years of age*" the document also refers to some illness which cannot be read. There are no details of the test carried out to ascertain his age. There is no documentary proof that the 1st Party was informed to prefer an appeal before the Appellate Medical Board if he was aggrieved by the Medical Report. The 2nd Party without addressing the question raised by the 1st Party workman against illegal Medical Examination would contend that having accepted the terminal benefits and having severed his relationship, his claim cannot be sustained.

9. MW-1 during cross examination though admitted that there are Statutory Records like, B-register and Provident Fund Register (pertaining to the employees) no such document was produced and the witness was ignorant as to whether change of age as per the medical certificate was intimated to the EPF Authority. The 1st Party due to ignorance, illiteracy or for want of information might not have challenged the Medical Report before the Appellate Medical Board, but that cannot legalise the action of premature superannuation / termination effected on the basis of medical report which was basically not in consonance with the procedure contemplated in the rules (supra) applicable to them.

10. The action of the 2nd Party is not justified for another reason also that, they being the establishment having workforce exceeding thousands if were to retrench the workmen due to their financial crunch, they could not have done so, without complying the mandate of section 25-N of the Act, which they have omitted. If the refusal of employment to the workman is to be termed as retirement, it is a pre-retirement at the pleasure of the employer which is definitely illegal. If it is to be termed as retrenchment then also it is vitiated for not complying the mandatory provisions of section 25-F, G, H and N of the Act. Wherefore the action of the 2nd Party in terminating his service / premature superannuating w.e.f 28.02.2001 is neither justified nor legal.

11. Having held that the termination / premature superannuation illegal, the next question is, the relief that could be moulded in favour of the 1st Party workman who has not lead rebuttal evidence. However, having found that the action of the 2nd Party in retiring him from service prematurely was not legal and justified all the things shall fall in line. As of now the age of superannuation is enhanced to 60 years in par with State Government employees that being so he would have been in service upto 2023. By his illegal premature retirement, he has lost 22 years of valuable service. It is a fact, the dispute is raised after a much delay of 7 years probably being inspired by the judgments of the Hon'ble High Court in the matter of similarly placed workman, present dispute is raised. Once, his counsel had made the submission that the 1st Party expired, however subsequently withdrew said submission. Though he had undertaken to produce the workman before this Tribunal, the workman did not appear at all. In the given circumstance by striking a balance I hold the workman is entitled for a monetary benefit of Rs. 1,00,000/- towards his illegal termination.

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in imposing the punishment of forceful retirement from the services by way or order of discharge dated 28.02.2001 on Sh. H.T. Rangaiah is not justified.

The 2nd Party is directed to pay Rs. 1,00,000/-(Rupees One Lakh Only) to 1st Party workman Sh. H.T. Rangaiah within 2 months from the date of publication of the Award in the Official Gazette, failing which the amount shall carry future interest at the rate of 6% per annum.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 26th November, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2194.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 26/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/3/2008-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2194.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2008) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29012/3/2008-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 11TH DECEMBER 2019

PRESENT : JUSTICE SMT.RATNAKALA, Presiding Officer

CR 26/2008

I Party	**II Party**
Sh. B.R. Shivaiah, S/o Sh. Ramaiah, Bidare Village, Kembalu Post, Bagur Hobli, Channarayapatna Taluk Hassan Distt - 573 111. (Karnataka).	The Managing Director, Mysore Minerals Limited, No.39, M.G Road, BANGALORE - 560 001.

Appearance

Advocate for I Party : Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. L. Venkatarama Reddy

AWARD

The Central Government vide Order No. L-29012/3/2008-IR(M) dated 02.04.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the termination of Shri B. R. Shivaiah by the management of Mysore Minerals Limited w.e.f 02.05.2000 is justified? If not, to what relief the workman is entitled to?"

1. The case of the 1st Party workman is,

he joined the service of the 2nd Party at its Mining unit viz., Goblahalli Mines and later transferred to Jamboor Mines and again transferred to Thirthahalli Limestone Mines, Shimoga District as a Mining Worker. During the year 1998 he availed few days of sick leave. His sickness turned into jaundice. He took treatment in local medicine. He requested official of the 2nd Party to sanction leave from 1998 till his recovery. He reported to duty on 02.05.2000; without sanctioning sick leave the 2nd Party refused employment. Though he used to appear for Mine work he was not provided with work. He was orally informed that they have terminated his service w.e.f. 02.04.2000. The action of the 2nd Party is illegal and against the provisions of 'the Act'.

2. The 2nd Party filed the counter statement to the effect that his claim is belated. When subjected for Medical Examination as required under Mines Rules 1955, he was found incapacitated to work in a mine, since he was aged 58 years on the date of the Medical Examination. As per the Report of Expert Medical Examination he was terminated, he was given opportunity to prefer appeal before Appellate Medical Board within 30 days which he has not availed. He has received monetary benefits arising from his termination i.e., EPF, Gratuity, Leave Pension and settled the matter without protest, all his claim allegation are false.

3. The 2nd Party examined their Assistant Manager in support of their contention. It appears the cross examination portion of office evidence is cut, copied from some other case and is Pasted in the present case. However, during the further course of cross examination, he identified the notice which is issued to the 1st Party calling upon to subscribe signature to the formats to receive the P.F benefits as Ex W-1 and another office order dated 22.08.2008 extending superannuation of the employees from 58 to 60 years as Ex W-2.

The 1st Party workman has adduced rebuttal evidence reiterating his claim, during the cross examination he has stated that he has received PF and Gratuity amount. He adduced further evidence denying the plea of the 2nd Party regarding Medical Examination, Medical Report and declaring him medically unfit etc.

4. The 2nd Party have not produced any documentary proof to substantiate their stand of subjecting the workman to Medical Examination under Mines Rules, and terminating him as per the recommendation of the Medical expert. They have not met the allegations averred in the claim statement. Neither they have made effort to prove their case about subjecting to Medical Examination and terminating him on the recommendation of the Medical Expert.

5. Rule / Clause 24.1 of the Certified Standing Orders / Service Rules of the 2nd Party contemplates that the service of a permanent officer / employee terminated either by the company or by the Officer / Employee himself by issue of 3 months notice or payment of 3 months' salary in lieu of such notice.

In the matter of imposing major penalty procedure is contemplated by Rule / Clause 33 which warrants that the employee shall be informed of the allegation on which charges are based with opportunity for submitting his explanation; if his explanation is not accepted the Disciplinary Authority may hold the enquiry by himself or get the enquiry held by any person. During the enquiry the employee shall be given full opportunity to depend himself by cross examining the witnesses produced against him and also to adduced his defence evidence.

6. Neither of the above procedure is followed in the present case. They have not disputed the identity of the workman; their own witness has identified the notice addressed to the 1st Party workman informing to approach them to sign the P.F application form. In the given circumstance the only possible conclusion is the workman is terminated without following due process of law, hence his termination is vitiated. Consequently, he is entitled for reinstatement to his original post. As regard to back wages is concerned, as per his pleading he joined the service in the year 1986 while he was aged 21 years i.e. to say he will be superannuated in the year 2025. He has raised the dispute after a delay of 8 long years now the 2nd Party can't be taxed for the said delay, balancing between the two contrasting factors I hold, he is entitled to be reinstated without back wages.

AWARD

The reference is accepted.

The action of the 2nd Party Management MML in terminating the services/premature superannuating of the services of Sh. B. R. Shivaiah w.e.f. 02.05.2000 is not justified.

The 2nd Party is directed to reinstate the1st Party workman to his Original Post with continuity of service without back wages.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 11th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इण्डियन ऑयल कार्पोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 43/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2013) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Oil Corporation Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 10TH DECEMBER 2019

PRESENT : Justice Smt. Ratnakala, Presiding Officer

I D 43/2013

I Party

Sh. K Padmanabha,
S/o Keshavamurthy,
No. 59, C/o Balaji Police,
Chikkajala Bangalore North,
Devanahalli Airport Road,
Palekam Nagar, Near Palekam Nagar,
Bangalore - 560 057.

II Party

1. The Plant Manager,
IOCL, LPG Bottling Plant,
IOCL, Devanagundi,
Bangalore - 562 114.

2. M/s. V.K. Enterprises,
Indane Bottling Plant,
IOCL, Devanagundi,
Bangalore - 562 114.

Appearance

Advocate for I Party : Mr. Kumara L

Advocate for II Party : Mr. B.C. Prabhakar

AWARD

1. It is an individual Industrial Dispute raised by the erstwhile employee of the 2nd Party as per sec 2-A(2) of the Industrial Dispute Amendment Act, 2010 (for brevity 'the Act' hereafter) challenging his termination dated 30.03.2002.

He has arrayed the Principal Employer and the Contractor as 2nd Party No. 1 and 2 respectively. 2nd Party No. 2 though served has not appeared to contest the claim.

2. The 2nd Party No.1 filed its counter statement contending that they are engaged in Supply and Distribution of Petroleum Products; they were carrying out their business at Whitefield area which is now closed; the 1st Party workman is not their employee, he was employed under the Contractor 2nd Party No.2; they had entrusted Haulage and Housekeeping work to 2nd Party No.2. The Contractor allots the work, supervises the work of the contract employees and pays wages; he maintains Attendance and Payment Register of his labourers and also complies the statutory requirements under ESI and P.F Acts. They have Registration Certificate under Contract Labour (Regulation and Abolition) Act, 1970 for entrusting the works on contract basis. On the instruction of the District Crisis Group they

closed their operation of the Plant at Whitefield w.e.f 17.08.2009 and shifted the activities to Devanagonthi LPG Bottling Plant by commissioning the third Carosal. Thus, their contract agreement at Whitefield with the 2nd Party No.2 came to an end. After the termination of the Contract, they have learned that 1st Party was issued a charge sheet on the basis of the complainant lodged by 2nd Party No.2 for certain acts of misconducts committed by him while he was in employment of the 2nd Party No.2. There is no jural relationship between them and the 1st Party.

3. It is further contended that as per the provisions of sec 2(A)(2) of 'the Act', a petition has to be made to the Labour Court/Tribunal before expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination of service. This petition is filed in the year 2013 after nearly 12 years of his termination. Hence, barred by limitation.

4. The 1st Party workman is represented by a counsel. He had filed his affidavit evidence on 02.05.2017 and at his instance the case was adjourned for his further evidence. But he continuously remained absent thereafter. Notice issued to his address returned with the endorsement "not known". It is noticed from the Certificate issued by the Conciliation Officer that he made representation before the Labour Authorities on 08.06.2011 challenging his termination of 30.03.2002.

5. Sec 2(A)(3) of the Industrial Dispute Act 1947, reads thus:

> *The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).*

Obviously, this petition is brought to this Tribunal after expiry of 3 years, hence hit by sub clause 3 of sec 2(A) of 'the Act' hence not maintainable.

AWARD

The petition is dismissed.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 10th December 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स नेशनल मिनरल डेवलपमेंट कार्पोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 122/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.12.2019 को प्राप्त हुआ था।

[सं. एल-29011/5/2007-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 122/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. National Mineral Development Corporation Limited and their workman, which was received by the Central Government on 17.12.2019.

[No. L-29011/5/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, BANGALORE

DATED : 06TH DECEMBER 2019

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 122/2007

I Party

The General Secretary,
Sh. ARM Ismail,
Iron Ore Labour Union,
D-10 Durgappa Complex,
KC Road, Karnataka,
BELLARY – 583101.

II Party

The General Manager,
Donimalai Iron Ore Project,
National Mineral Development
Corporation Ltd.,
Donimalai Town Ship,
Sandur Taluk,
BELLARY – 583118.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. N. Venkatesh

AWARD

The Central Government vide Order No. L-29011/5/2007-IR(M) dated 22.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the action of the management of National Mineral Development Corporation Ltd., Donimalai, Bellary in terminating the services of Sh. H.T. Sathyanarayana, Assistant Grade III with effect from 31.03.2006 is legal and just? If not, to what relief the workman is entitled?"

1. The 1st Party Union has espoused the cause of the workman Sh. H.T. Sathyanarayana who was working as Assistant Grade III with the 2nd Party and subsequently terminated from service vide disciplinary action consequent upon the charges made against him came to be proved in a Departmental Enquiry.

The 1st Party claims that, the order of punishment is unjust, arbitrary and illegal; charges made against him is baseless and only with a view to victimize him, the enquiry was not fair, valid and in contravention of principles of Natural Justice. The Management did not produce relevant witnesses during the enquiry and the witnesses examined by them were not relevant. The finding of the enquiry is arbitrary and perverse; the Punishment Order is passed without independent application of mind. The Punishment Order is exceedingly harsh and disproportionate.

2. The 2nd Party refuted the entire allegation levelled, in their counter statement, while justifying their action. They have also challenged the propriety of the Union in espousing the cause of the workman who is not their member.

3. On the rival pleadings, touching the fairness of Domestic Enquiry a Preliminary Issue was raised, tried and adjudicated by upholding the fairness of the Domestic Enquiry.

4. Thereafter, the 1st Party workman adduced evidence stating that, subsequent to his dismissal he is unemployed. The General Secretary of the 1st Party Union adduced evidence to the effect that, he was requested by the Trade Union / Donimalai Iron Ore Project Employees Association of which Sh. Sathayanarayana was the member, to Sponsor of his cause. His Union is affiliated to All India Trade Union Congress, in the capacity of the General Secretary of the All India Trade Union Congress, he filed conciliation petition before the Regional Labour Commissioner.

At the instance of the 2nd Party, an independent witness was examined. This witness was believed by the 2nd Party as the present Employer of the workman but the witness did not subscribe to the said contention.

5. Both learned counsels have addressed oral argument along with written brief.

The sum and substance of the allegation is, on 26.07.2004 a diesel tanker no. AP 21 T 5508 filled with 12,000 litres of diesel from Indian Oil Corporation, Gundkal reached CISF check post, NMDC, Donimalai at 14:30 hrs, reached the hill top at 16:00 hrs for unloading the diesel.

The 1st Party workman was on duty; he was assigned with the duty of receiving and unloading diesel at the main stores hill top. In the presence of the Officials of CISF and the 2nd Party, he checked the seals of the tanker and stated that, all seals are intact; he checked the diesel with dip rod / measurement rod and stated that the quantity is correct as per the invoice and there can be shortage of 20-50 litres diesel due to vibration; while he was about to unload the diesel, he was stopped by AC, CISF and was asked to measure again along with the constable of CISF who also climbed on the top of the tanker; they found that about 800 litres of diesel was less in second and third compartment put together. As per the voucher second and third compartment contain 8000 litres of diesel and the first compartment contain 4000 litres of diesel. The workman was aware that 8000-1100 litre of diesel was removed from the Tanker in a shop at Kudithini,

Subsequently, on a joint inspection of IOC and NMDC Officials they found that the bottom valves' seals are intact, the caps of the second and third compartments and valves' were in tampered condition; rare master valve levers are in open condition; man hole cover seal was in open condition; the dip reading recorded huge shortage of 1105 litres shortage from second and third compartment.

The 1st Party had recorded 12000 litres of diesel in the register without taking measurement.

He confessed before AC CISF that, about 800 litres of diesel was unloaded at kudithini, kirana shop.

At his instruction given through telephone, the shop owner had diverted the tanker to his shop and decanted diesel of 800 litres by opening the bottom seal of the tanker and had informed the same to the workman. He has amassed property disproportionate to his known income.

6. During the enquiry, the Management examined 12 witnesses and marked as many as 12 documents. On behalf of the 1st Party workman, no evidence was adduced; however, the affidavits of three witnesses who were named in the list of witnesses but could not be examined were produced; the defence of the workman was of total denial. His case is, no information used to be given from M/s IOC, Gundkal regarding the dispatch, Diesel Tank Number and the time. Hence, there was no question of taking out the diesel from the tanker at Kirana Shop at Kudithini. The driver and the cleaner of the lorry, who had allegedly given the confession statement, were not examined during the enquiry. Instead, he has produced the affidavits of those witnesses disowning their voluntary statements admitting their involvement in the case. The seals can be tampered by the tanker crew, hence, M/s. IOC keeps on changing the system of sealing very frequently (as deposed by the witness Sh. V N Chandrakumar Assistant Manager sales of M/s IOC), he is not responsible for tampering the seals of the tanker. As per the terms of the contract, the delivery of the oil to NMDC by M/s IOC is upto the doorstep of NMDC, at its cost and they are responsible for tampering of seal leakage and pilferage. There is Transport Agreement between IOCL and the Contractor to deliver the Diesel in terms of correct quality and quantity on behalf of M/S IOCL. In this case IOCL recovered the cost of shortage of diesel at Rs. 22,465/- on 31.08.2004, from the Transport contractor and blocked the listed tanker.

Regarding making entry in the register as Rs. 12,000/- without measurement, it is the procedure to make entry as per the invoice on receipt of the material along with the invoice. The decanting procedure as laid down in the materials manual is not followed by anyone (as per the deposition of Hill Top Stores Official Sh. S Muthuswamy); he has not given any confession before anybody admitting the misconduct. The Owner of the Kirana Shop is not examined during the enquiry to establish the allegation that, he telephoned the shop owner at Kudithini to establish the allegation that he had given the Tank number to him; the Telephone number was also not produced during the enquiry. Since, the driver and the cleaner of the lorry keep on changing; he cannot contact such changing driver and cleaner. The prosecution has not produced any material to establish that he has made property disproportionate to his known source of income.

7. The Enquiry Officer in the body of his report has swayed by the documentary evidence rather than taking pain for appreciation of the oral evidence placed before him. He refers to the joint inspection report of M/s IOCL and M/s NMDC submitted by the Officials and Ex -11 the voluntary statements of driver and cleaner of the vehicle, to hold that there is sufficient circumstantial evidence to prove the allegations against the CSE. He has merely cites witnesses as PW-1 PW-2 PW-4, PW-10 to PW-12 without outlaying the evidence that was brought through them. Though he has noticed that, there was no documentary evidence about the malpractice being carried on for last one year and though there was evidence from the Official witnesses that joint inspection of diesel receipt at the Hill top Diesel bunk is discontinued from 1997, he makes use of those lapses to infer that *'this is a significant lacuna which gave free hand to the individual who alone doing the procedures of diesel unloading and colluded with the tanker crew for pecuniary gains'*. He has rightly rejected to consider the affidavits (listed as Management witnesses by the 2nd Party but not examined) produced by the 1st Party workmen. This finding cannot be found fault with since those three witnesses were

not tendered for cross examination by the CSE. With his sweeping observation angles up the entire evidence and records the finding of guilt in respect of charges one to five.

However, he looks to the evidence of AW1 wherein, he had deposed that the CSE orally confessed his involvement from last one year and there was no suggestion to the witness that, no confession was made by CSE orally before him. The fact that the other prosecution witnesses had stated to the effect that, the drivers and cleaner had given confession statement which were marked Ex-2 to 4 and there was no denial of statement during the cross-examination that, has weighed upon the Enquiry Officer to appreciate the case of the Management. The defence was urging that Ex P-2, Ex P-3 and Ex P-4 were not made voluntarily. The Enquiry Officer observed that, it was for the defence to show that these statements were recorded under coercion and intimidating conditions.

Though, in the preceding Para of his Report he had observed that, the ingredients of I to IV of article No. 1 is true as per the documentary evidence further confirmed by statement of witnesses, at the closing Para, he would contrarily record that charge IV is partially proved which deals with a acquisition of properties disproportionate to his known source of income. He records that acquisition of disproportionate properties is not proved.

There is no detailed discussion of the evidence placed before him and the conclusion does not flow from a analytical appreciation of evidence, what concerns is, the 1st Party did not refute his presence as the Official in charge to receive the diesel tanker on 26.07.2004 at the hill top at 16:00 hrs for unloading of the diesel. He did not dispute the discrepancy between the entry made by him in the register to the effect that, they have received 1200 litres of diesel. He does not dispute the fact that, at the first instance he measured the diesel with the dip stick and found the measurement correct with a variation of 20-50 litres; he has no counter say to the case of the management that second time measurement was done by him with the constable of CISF at the instruction of AC, CISF and this time they found shortage of 800 litres of diesel. He has personally measured on both occasions and the burden was him to explain the difference of measurements.

On a joint inspection by IOC and NMDC exposed the shortage of 1105 litres. The difference between the first and the second measurement is not marginal, it is significant. Though, there was no evidence before the Enquiry Officer about his culpability for theft and fraud; what emerges from the evidence produced during the enquiry is, he exhibited gross negligence in measuring the diesel at the first instance. The statements of the driver and two cleaners of the lorry is the genesis for entire charge sheet allegation. Unfortunately, they are not examined before the enquiry. The Enquiry Officer has relied on the statements of PW-1, PW-2, PW-3, PW-14 and PW-16 who had stated that, the CSE has orally confessed to AC, CISF but AC, CISF / PW1 though stated that, the CSE had confessed to have been done malpractice since one year, he categorically further stated that, CSE did not feel guilty and did not ask for excuse. He has also produced the statement of the 1st Party workman which was recorded at the gate; said statement is marked as Ex-5 and there is no element of confession in this statement. His oral evidence is contradictory to the Documentary evidence regarding the confession alleged to have been made by the workman. If the crew of the lorry had admitted their guilt as per the statements marked as Ex-2 to Ex-4 that cannot be used against the CSE at the most it may be used against the authors of those statements. Except to the charge of amassing wealth disproportionate to known source of income entire charge sheet allegation is founded on Ex-2 to Ex-4. The Enquiry Officer takes exception on the defence for not suggesting falsity of the oral confession of the CSE and the documentary confession Ex 2 to Ex-4, but such exceptions and drawing inference from the vacuum is not proper. The CSE is represented by a Co-employee who is not a well versed with the niceties of law and procedure. The CSE who is at the receiving edge cannot be sacked for the deficiency in the quality of cross examination of prosecution witnesses. At the cost of repetition, I have to say what is established during the enquiry was gross negligence on the part of the CSE in measuring the volume of the diesel. He has short measured the diesel and now that is attributed as Theft, fraud in conspiracy with others.

The punishment of Termination imposed on him by the 2nd Party is without independent application of mind. It is harsh and excessive when compared to the nature of the misconduct committed by him. No complaint was lodged by the 2nd Party against the receiver of the stolen property. The 2nd Party has not suffered financial loss for the negligent act of the CSE wherefore; I hold that it is a fit case to taper the Punishment Order in exercise of the jurisdiction under Section 11A of the I D Act.

8. Much is said about the irregularity in espousing the cause of the workman. When the statute permits an individual workman to agitate his cause on his own in matters of retrenchment, dismissal, discharge or otherwise termination, irregularity if any in the matter of espousal cannot be counted upon. Further, the Secretary of the 1st Party Union has deposed about the request made by the other Trade Union of which the workman was member, acting on which they have raised the Industrial Dispute before the conciliation Officer.

9. The workman had testified before this Tribunal that, he is not gainfully employed ever since his termination. The effort made by the 2nd Party to demonstrate that, he is employed in a Petrol Bunk has failed. The workman has paid by being unemployed for the lapses on his part in performance of his duty. In the given circumstance, I hold reinstatement of workman to his original post with continuity of service and 25% of the back wages is the appropriate relief that can be awarded.

AWARD

The reference is accepted.

The Punishment Order imposed by the 2nd Party National Mineral Development Corporation Ltd., Donimalai thereby terminating the services of workman Sh. H.T. Sathyanarayana, Assistant Grade III w.e.f. 31.03.2006, is not legal hence, set aside.

The 2nd Party is directed to reinstate the workman to his original post with continuity of service with 25% of back wages.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 06th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कार्पोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुम्बई के पंचाट (संदर्भ संख्या 20/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/45/2016-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2017) of the Central Government Industrial Tribunal/Labour Court-2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation Ltd. and their workman, which was received by the Central Government on 16.12.2019.

[No. L-30011/45/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/20 of 2017

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. BHARAT PETROLEUM CORPORATION LTD.

The General Manager,
M/s. Bharat Petroleum Corporation Ltd.,
Bharat Bhawan, 4 & 6, Curribhoy Road,
Ballard Estate, Post Box No.688, Mumbai – 4000 001.

AND

THEIR WORKMEN

The General Secretary,
Petroleum Employees Union,
Tel – Rasayan Bhavan, Tilak Road,
Dadar [E], Mumbai – 4000 014.

APPEARANCES:

FOR THE EMPLOYER : Mr. R. S. Pai, Advocate

FOR THE WORKMEN : Mr. J. H. Sawant, Advocate

Mumbai, dated the 29th November, 2019

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-30011/45/2016 – IR (M) dated 09.05.2017. The terms of reference given in the schedule are as follows :

> *"Whether the demand of the Petroleum Employees Union, Mumbai for reinstatement and absorption of Shri Shiwa M. Gowda and 9 others [as per list of workmen attached contract workmen employed through M/s. K.K. Enterprises, Mumbai directly in the establishment of principal employer i.e. Sewree Installation of Bharat Petroleum Corporation Ltd. from retrospective date on the plea that the contract entered into between BPCL and the contractor is sham and bogus, is just and legal ? If so, what relief the workmen are entitled to ?''*

LIST OF WORKMEN

1. Shiva M. Gowda
2. Dhamale J.D.
3. Trimuke Ambadas
4. Laxman Gowda
5. Maju Gowda
6. Maina B. Pandagale
7. Atyavati D. Narvekar
8. Jagale Savitri
9. Chabu Avasarmal
10. Geeta Ramane

2. After the receipt of the reference, both the parties were served with the notices.

3. On going through the Roznama, it appears that the concerned workman is absent since 6.3.2018. The concerned workman has not filed statement of claim since long. As such there is no material on record to substantiate the claim of the concerned workman.

4. Hence the reference is rejected for want of evidence. Hence Order.

ORDER

Reference is rejected for want of evidence.

Date: 29.11.2019

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2019

का.आ. 2198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सेन्ट्रल वेयरहाउसिंग कार्पोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 56/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुआ था।

[सं. एल-42012/3/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th December, 2019

S.O. 2198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2015) of the Central Government Industrial Tribunal/Labour Court-2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Central Warehousing Corporation and their workman, which was received by the Central Government on 16.12.2019.

[No. L-42012/3/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 56/2015

Registered on:-09.12.2015

Kailash S/o Suraj Singh, R/o Birbal Nagar, Narwana, Jind. …Workman

Versus

Central Warehousing Corporation, through its Regional Manager,
Bays No.35-38, Sector-4, Panchkula. …Managements

AWARD
Passed on:-03.12.2019

Central Government vide Notification No. L-42012/3/2015-IR(M) Dated 24.11.2015, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of the management of Central Warehousing Corporation, Narwana, Haryana in terminating the service w.e.f. 27.01.2011 of the workman Sh. Kailash, S/o Sh. Surak Mahto is justified or not? If not, what relief the workman is entitled to and from which date?"**

1. Both the parties were put to notice and claimant Kailash filed statement of claim, with the averment, that he along with other workmen was working as handling labour and was performing the duties for loading/unloading the foodgrains for the Food Corporation of India storage thereof is being made by the Central Warehousing Corporation through contractors engaged by the respondent from time to time for calling the tenders from the contractors with certain terms and conditions. Information received through RTI, it was found that grave irregularities have been committed by the contractors with the workman regarding the attendance register annual returns and the position of the representative of principal-employer in grave violation of Contract Labour(Regulation & Abolition) Act, 1970 and Central Rules 1971. When the workman started agitating against the violation of the Act, the management denied his entry along with other workmen in the premises which amounts to illegal termination of the workman without giving opportunity of hearing against Section 25-F of the Industrial Disputes Act, 1947. The denial of the management that workmen never remained the workers of the respondent-corporation is wrong and false because as per the list provided by the labour contractors for the period from 20.02.2007 to 05.12.2009 clearly shows the names of 62 number of handling labourers/workmen including the claimant is mentioned. By virtue of notification of the Government of Haryana dated 26.02.2014 principal-

employer is held responsible for the compliance of labour Laws. As per the records supplied by the respondent-management, the labour work is got done by the petitioner/workman and the respondent contractors are misusing the money received from the respondent-corporation in the shape of wages and incentive for the labourers. The violation of the said agreement as well as the circular mentioned above regarding departmentalization of the labours/workers and the termination of the petitioners/claimants without giving any specific reason is contrary to Law. It is therefore, prayed that the statement of claim may kindly be accepted and the workman be reinstated in service with continuity of service with full back wages.

2. Management has filed its written statement, alleging therein that the workman was engaged by the contractor M/s Sahib Transport Company, Kurukshetra. The respondent-management is premier warehousing agency in India, established by the Parliament. The handling contractors are being appointed by CWC for certain period on contract basis further extendable upto three months. CWC is primarily functioning as custodian in the stocks in storage. M/s Sahib Transport Company, Kurukshetra was awarded a contract to deploy labours for loading/unloading foodgrains and workman might be one of them as such, the workman was not engaged by the answering respondent. Hence, he is neither workman within the definition of Section 2(S) of the Industrial Disputes Act as well as there is no relationship of employer and employee between the workmen and answering respondent. Neither any appointment letter nor termination letter was ever issued by the answering respondent to the workman. The respondent-management had no administrative, economic and disciplinary control over the services rendered by the workmen(if any). M/s Sahib Transport Company, Kurukshetra, was engaged as contractor for April 2010 to February 2011 and subsequently contractor M/s Rohtash Kumar and Company, H.No.550/6, Patel Nagar, Kurukshetra was engaged as contractor with the respondent vide agreement dated 28.03.2011. Both the contractors are independent orgainsations and were deploying their labours on the terms and conditions of the agreement. The workmen has deliberately, intentionally have not made the contractors party in the present case and reference is not maintainable against the respondent. Contractors being licenced contractors under the Contract Labour Act as such, reference is liable to be dismissed on the sole ground.

3. Parties were given opportunity to lead evidence.

4. Workman Kailash has submitted his affidavit Ex.WW1/A along with documents Ex.WW1 to WW7. Learned counsel of management has examined this witness and workman Kailash has stated in so many words that he is illiterate and could only put his thumb impression. The workman Kailash has further stated that he is not acquainted with the facts written in his affidavit and submitted as evidence. This witness has further accepted that he was the employee of M/s. Sahib Transport Company, Kurukshetra, and his salary was paid by the manager of the firm/contractor. This witness has stated that he has not made any complaint to any authority regarding non-payment of his wages. As per the workman, respondent-Central Warehousing Corporation has not issued any letter regarding his termination and all the employees of the contractors were doing the work of loading/unloading in Central Warehousing Corporation.

5. The management Central Warehousing Corporation has filed affidavit of Dr. Anurag Tripathi, Regional manager along with documents Ex.MW1 to MW3 but learned AR of workman along with workman Kailash did not turn up to cross-examine this witness. Thus, the affidavit filed by the witness of the management namely Dr. Anurag Tripathi and supporting documents remained unrebutted and uncontroverted.

6. I have heard the learned counsel of management Sh. Vishnu Kaushik, in the absence of workman and his counsel and perused the file carefully.

7. The first contention regarding the claimant is that whether he comes within the definition of workman as is defined in Section 2(S) of the Industrial Disputes Act, 1947. I may mention that claimant was working as handling labour and was performing the duties for loading/unloading of foodgrans as per his claim petition and affidavit submitted before the Tribunal. In plain words the claimant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(S) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one***

employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."

Thus Hon'ble Supreme Court has clarified that the definition of workmen also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(S) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the claimant herein admittedly falls within the definition of 'workman' under Section 2(S) of the Act.

8. There is no dispute about preposition of law that onus to prove that claimant was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of his/her appointment or engagement for that year to show that he worked with the employer for 240 days or more in a calendar year. In this regard reference may be made to ***Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Mehgajibhai Gavda (2012) 1 SCC 47.***

9. Question remains to be seen whether the workman has proved that he was directly engaged under the respondent-management and regularly rendered his services till his termination. This fact has to be proved by the documentary evidence as well as oral evidence. At the very outset, it may be mentioned that there is not a single document to prove that workman was engaged by the respondent-management. In fact the facts alleged in the claim petition, it is not very clear and it can be infer from the facts alleged in the claim petition that he was working under the contractors engaged by the respondent-management for loading/unloading and other works done for Food Corporation of India. Cross-examination of the workman Kailash is very clear and unambiguous regarding the engagement by the contractors where he has accepted that he was the employee of M/s Sahib Transport Company, Kurukshetra and his salary was paid by the manager of the firm. Thus, by virtue of the evidence rendered by the workman in his cross-examination, it is proved beyond doubt that he was engaged for the relevant period by the contractor M/s Sahib Transport Company, Kurukshetra. It is not disputed that the said contractor was engaged by the respondent-management for loading and unloading through workers as per terms and conditions of the agreement executed between the workman as well as contractor. Respondent has filed copy of contract entered into with the subsequent contractors Rohtash and Company along with the tender notice and other relevant documents but the witness of the management namely Dr. Anurag Tripathi has not been cross-examined by the learned AR of the workman resulting his evidence unrebutted. Workman Kailash has accepted that being illiterate, he can only put his thumb impression and he cannot aware with the facts alleged in the affidavit filed as Ex.WW1/A in the form of evidence. Thus, this witness is totally unknown with the averments made in the affidavit in support of the facts alleged in the claim petition rendering the value of the affidavit as nil.

10. The Hon'ble Supreme Court after analysing the catena of cases has laid down in ***Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014,*** two well recognised tests to find out whether the labours are the contract employees of the principal employer are:-

(1) Whether the principal employer pays the salary instead of contractor and

(2) Whether the principal employer controls and supervise the work of the employees?

The facts regarding the employment of contractor Sahib Transport Company by the principal-employer i.e. Central Warehousing Corporation and payment of wages by the contractor namely M/s Sahib Transport Company, Kurukshetra, is a matter of record where claimant himself has admitted that he was neither employed by the management directly nor salary is paid by the respondent-management. Instead this witness has stated that he was working under the contractor M/s Sahib Transport Company, Kurukshetra, and his salary was also paid by the manager of the firm. Thus, there is nothing on record to prove that virtually relationship of employer or employee or master and servant ever existed between the workman and respondent-management.

11. So far as the question of issuing notice under Section 25-F of the Industrial Disputes Act, 1947 is concerned, legally speaking, it is the duty of the employer to the contractor Sahib Transport Company to issue notice or pay compensation in lieu of one month salary in the light of the facts alleged in the claim petition and evidence adduced by the workman but unfortunately contractor namely M/s Sahib Transport Company, Kurukshetra, has not impleaded as party to the claim petition. It is evident that if the workman/claimant has not employed directly by the respondent-

Central Warehousing Corporation, the question for one month salary in lieu of retrenchment compensation is not required by respondent as per Section 25-F of the Industrial Disputes Act, 1947. The reference is made with respect to the action of the management of Central Warehousing Corporation Narwana in terminating the services of workman Kailash. If there did not exist a relationship of employer and employee, master and servant between the workman with respondent-management so, termination of the services by the respondent-management of the workman is out of question.

12. Having gone through the above facts and legal position, I am of the considered opinion that workman has miserably failed to prove that he was ever employed by the respondent-Central Warehousing Corporation and his services were ever terminated by the respondent-management as such, he is not entitled for any relief from the respondent and the reference is answered accordingly.

A. K. SINGH, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2019

का.आ. 2199.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 01/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.12.2019 को प्राप्त हुआ था।

[सं. एल-22011/23/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th December, 2019

S.O. 2199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Guwahati, as shown in the Annexure, in the industrial dispute between the Management of M/s. Food Corporation of India and their workmen, received by the Central Government on 16.12.2019.

[No. L-22011/23/2017-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,GUWAHATI, ASSAM

Present: Shri Mrinmoy Kumar Bhattacharjee, M.A., LL.B. Presiding Officer, CGIT-cum-Labour Court, Guwahati.

Ref. Case No.01 of 2018

In the matter of an Industrial Dispute between :-
Sri Jogen Boro, Darrang, Assam & 5 Others. …Claimants/Union

-Vrs-

The Management of Food Corporation of India , Guwahati & another. …O.Ps/Managements

APPEARANCES

For the Workmen. : Mr. B. C. Pathak, learned Advocate
Mr. B. Pathak, Learned Advocate
Mr. R.Thadani, Learned Advocate

For the Management. : Mr. P.K.Das, learned Advocate

Date of Award: 09.12.2019

AWARD

1. This Industrial Dispute was referred to this Tribunal by the Ministry of Labour, Government of India, New Delhi vide order No. L-22011/23/2017-IR(CM-II) dated 11.12.2017 with the following schedule.

SCHEDULE

"1. Regularization of 3 workmen out of 10 petitioners is an unfair Labour practice sec.2(ra) & Fifth schedule of the Industrial disputes Act, 1947, and also violation of basic Article 16 of the constitution. If not the reason thereof. 2. The 6 petitioners in the instant case are deprived from the benefit of regularization. They should be regularized with retrospective effect from the date, the others 3 workmen were done so, if not, then the relief to be accorded to the petitioners in the instant case. 3. Non-payment of bonus above statutory bonus which the workmen had been getting from 1982 till 2003, should they not get their customary benefits which they had been getting. If no, reason thereof."

2. After receipt of the reference from the appropriate Government the present reference case was registered and all the parties were issued notices. The workmen namely (1) Jogen Boro, (2) Sri Babul Das, (3) Sri Sukuram Rabha, (4) Sri Ganga Sahani, (5) Sri Prabin Barua, (6) Sri Hari Charan Boro submitted their claim petition the gist of which can be summarized as follows.

3. When the dispute was taken to the Regional Labour Commissioner (C) at Guwahati, an effort for conciliation was made. When the conciliation proceeding failed he sent the "conciliation failure" report to the Appropriate Government and the Appropriate Government referred the above Industrial Dispute to this Tribunal. It has been mentioned in the claim application that all the 6 workmen are casual workers of FCI engaged in Food Storage Depot of FCI at Bindukuri and they have been working for long time without any break in service. The wages are paid by the management of FCI. It is further stated that though the workmen were regularly working under the management they were deprived of other service benefits. It was stated that they were made to work on the National Holidays but no payment was made for such work. They were often made to work 10 to 11 hours a day. Though they were paid bonus since 1982, suddenly the payment of bonus was stopped on and from 24.9.2003. The casual employees are regularized from time to time in accordance with the direction issued by the Head Quarter of FCI at New Delhi and accordingly on the basis of the aforesaid circular some casual workers were regularized but large numbers of employees were left out from regularization. It was also stated that all the 6 workers however fulfilled all conditions for regular service but when the process of regularization was going on, concerned workers were suddenly retrenched by the management. After the aforesaid retrenchment on 16.3.1993 the workmen raised Industrial Dispute along with other co-workers which was ultimately referred to the Industrial Tribunal, Assam and the Industrial Tribunal vide Award in Ref. Case No.1(C) of 1994 passed a favourable award directing reinstatement of the concerned workers along with 50% back wages. The award was challenged before the Hon'ble Gauhati High Court in Civil Rule No.4274 of 1996. The petition was however, dismissed. Thereafter the management of FCI preferred Writ Appeal being W.A. No.446/2001 which was also dismissed. Accordingly the Award dated 24.04.1995 passed in Ref. Case No.1(C) of 1994 by the Industrial Tribunal, Guwahati was affirmed by the Hon'ble Superior Courts. The operative part of the aforesaid award may be quoted hereunder:

"In the light of the above finding I must say that the order of retrenchment of 10 workers from their services after more than 10 years of continuous service is bad in law and is not sustainable. As a result it is held that the retrenchment order of Sarbasree Doma Sahani, Kahiram Rabha, Sri Ganga Sahani, Sri Biswanath Basfor, Babul Das, Jogen Baro, Suku Rabha, Sri Prabin Boruah, Smti. Phulmati Hazarika, of Tangla F.S.D and Shri Hari Charan Boro of Bindukuri F.S.D. are not justified and they are to be reinstated in their services with continuity from the date of retrenchment.

As regards back wages it is ordered that the workmen be paid 50% of their back wages from the date of retrenchment till the date of award because of their future employment with all retirement benefits."

By filing the claim statement the concerned workmen prayed for direction to regularize their service along with all benefits including payment of bonus and customary benefits like Overtime and payment in lieu of National Holidays.

4. By filing written statement the management of F.C.I contested the claim of the concerned workmen mainly on the ground that the workmen had failed to prove that they were in the service for more than 240 days in a year. According to the management, on the aforesaid ground the workmen were not entitled to be regularized. It was also stated that in the original award dated 24.04.1995 the Industrial Tribunal, Guwahati no direction was passed on the issue of regularization hence, the claim of the concerned workmen that they were not regularized despite favourable order by the Industrial Tribunal was wrong on facts. It is however an admitted position that all concerned workmen are working under the management as casual employees.

5. The workmen side examined all the 6 concerned workmen. They were duly cross-examined by the management side. However the management side did not adduce any evidence.

6. The workman side examined all the concerned 6 workmen and submitted their examination in-chief on affidavit. Their examinations in-chief are more or less same/similar in nature. Let me, therefore, briefly state what the witnesses said in their examinations- in-chief. According to the examination in-chief of workman witnesses they have been working under the management of F.C.I on casual basis from different dates commencing from 1982 to 1984. It was also stated that they were working continuously and regularly but they were deprived of several service benefits. It was also

stated that as per Circular of F.C.I (Exhibit-5) the casual employees in F.C.I had been regularized from time to time but the concerned workmen were not regularized and instead they were retrenched from service vide Circular dated 09.09.1996 (Exhibit-6). The retrenchment order of the management was challenged in a Reference Case No. 1(C) of 1994 and the Tribunal vide award dated 24.04.1995 (Exhibit-7) gave direction of reinstatement of the concerned workmen as casual employees. The said award was also upheld by the Hon'ble Superior Courts. It was also stated that by the Circular dated 06.05.1987 (Exhibit-5) the management decided to consider regularization of the casual employees and accordingly ban on recruitment was lifted for filling in entry level posts in category III and IV. It was also stated that Zonal Office of F.C.I issued an advertisement in the year 2005 (Exhibit-13) for appointment of 82 numbers of Grade-IV persons as watchman but the authority of the F.C.I did not consider the case of regularization against the said post. Thereafter the concerned workmen along with other workmen filed Writ Petition (C) No. 1390 of 2005 before the Hon'ble High Court praying for regularization. But the Hon'ble High Court vide order dated 18.07.2007 (Exhibit-14) did not pass any order for regularization but retained the right of the workers to raise the issue of regularization before the appropriate forum as per law. Cross-examination all the workmen witnesses are same. Let me quote the cross-examination:

"On oath:

I have not submitted any Appointment letter showing my appointment as casual workers because no appointment letter is given to the casual worker. I was appointed first in the month of November,1984. We were engaged as casual worker whenever the office is open but I cannot mention the specific dates. I am still working. I have not mentioned specifically in my examination-in-chief from which date to which dates I am working. It is also not there whether I have completed 240 days in a particular year or 20 days in a month. It is not a fact that I am not entitled to be regularized in the Company."

7. Management side has not adduced any evidence in this matter and hence, the matter has to be decided on the basis of the evidence adduced by the workman including their cross-examination and the documents brought on record. On perusal of all the materials on record it appeared that the concerned workmen through their Union raised an Industrial Dispute which was referred by the appropriate Government before the Industrial Tribunal, Guwahati and Reference Case No. 1(C) of 1994 was registered. In that Reference Case the present set of workmen were also involved. The aforesaid Industrial Dispute and the subsequent Reference Case was in view of the retrenchment/discontinuation of the concerned workers by the management of F.C.I. Admittedly, at that point of time they were working as casual workers under the management of F.C.I. The Industrial Tribunal vide award dated 24.04.1995 (Exhibit-7) decided that the retrenchment order of the concerned workers were not justified and they were reinstated in their services with continuity from the date of retrenchment. The learned Tribunal also granted 50% of the back wages from the date of retrenchment till the date of award. On perusal of the aforesaid award as well as the reference made by the appropriate Authority it was clear that there was no award passed by the learned Industrial Tribunal for regularization of their jobs. The concerned workmen were reinstated into their earlier capacity and admittedly they are also working in the present capacity. Thereafter this set of workmen also subsequently preferred a Writ Petition No.1390 of 2005 before the Hon'ble High Court and the Hon'ble High Court vide judgment dated 18.07.2007 (Exhibit-14) did not grant the relief of regularization and in paragraph 15 of the aforesaid judgment held as under:

"In view of the decision rendered by the Supreme Court in Umadevi (supra) this court would not be competent to pass orders for regularization of services of the writ petitioner/workmen and such order would clearly be contrary to the law laid down by the Supreme Court".

The Hon'ble High Court however mentioned that for getting their service regularized the concerned workmen may take recourse to such measures as may be available to them under law for this purpose. Admittedly after the aforesaid order passed in the Writ Petition by the Hon'ble High Court in the year 2007 no legal course was adopted by the concerned workmen and the issue of regularization was brought before the Regional Labour Commissioner (C), Guwahati on 12.09.2014 i.e. after 7 years.

8. During argument the learned Counsel for the workmen submitted that since the similarly situated workers were earlier regularized on the basis of the Circular issued by the management (Ext-5) the present set of workmen being identically situated are also to be regularized. He however stated that apart from regularization, the workmen have been deprived of legitimate dues namely, bonus, overtime and other service benefits. It was further stated that instead of regularizing their jobs, the management illegally retrenched them. When the retrenchment/dismissal was referred as an industrial dispute, the Industrial Tribunal, Assam, Guwahati vide award in Reference No. 1(C) of 1994 (Ext-7 dated 24.4.1995) reinstated the services of the concerned workmen with 50% back wages. The award was implemented and the concerned workers were reinstated as casual employees. However, there was no award for regularization.

The main ground taken by the management side was that the concerned workmen failed to prove as to from which date they were appointed as casual workers and that they were discharging duties of regular employees. Management side also argued that as per Ext-5, the circular issued by the management, only those casual employees were

eligible for regular appointment in entry level who have been performing duties of regular employees of the FCI and who have completed three months period of service as on 2.5.1986 and possessed requisite qualifications. On consideration of the documents exhibited, particularly, Ext-5 & 6, which the workman side heavily relied, it appeared that Ext-5 was issued when the FCI headquarters noticed that despite their circular dated 26.3.1980, the field offices continued to engage large number of causal employees. Ext-5 specifically mandated that those casual employees who have completed three months period of service as on 2.5.198 and have been performing duties of regular employees and possessed requisite qualification are to be considered for regularization. Admittedly, the workman side also relied heavily on Ext-5, apart from other documents. To be eligible to be considered for regularization as per Ext-5 or 6, the workman side was required to prove the following. First, they have completed three months period on 2.5.1986. Second, they have been performing duties of regular employees of the corporations under FCI (Staff) Regulations, 1971. Third, they had requisite qualification. On consideration of the evidence it appeared that certain months and years were stated by the workmen but there was no mention of specific date of their appointment as casual employee. However, in view of month and year of their joining as casual employees, it may be presumed that they have completed three months of service as on 2.5.1986. But most importantly, there was no specific material to show that they were discharging duties of regular employees and that they were possessing requisite qualification. There was also nothing on record to suggest that the concerned workmen were fully eligible to be considered for regularization as per terms stated in Ext-5. The award for regularization, therefore, cannot be passed.

9. But there was ample proof on record that the concerned workers were not paid bonus since the year 2003, though they were paid bonus up to 2003. The concerned workers are therefore, eligible to get bonus from the year 2003 as per applicable rates. In respect of overtime also the management could not rebut the claim of the workers that they were not paid overtime though they were made to work for more than 10 to 11 hours a day on certain occasions.

10. In view of the above, it is directed that the management shall pay the bonus to the concerned workers involved in this reference with effect from the year 2003 as per applicable rates till the date of the award. The payment of bonus shall also continue thereafter till such dates the concerned workers are in employment of the management. In regard to non-payment of overtime, the management shall also pay the overtime due to the concerned workers involved in this reference. The concerned workers involved in this reference, however, do not appear to be entitled to be automatically regularized in their services. The award shall be implemented by the management within 90 days from the date of receipt of the copy of this award. The reference is accordingly, disposed of with the award as indicated above.

Given under the hand and seal of this Tribunal this 09th day of December, 2019.

MRINMOY KUMAR BHATTACHARJEE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2019

का.आ. 2200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह-श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 77/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2019 को प्राप्त हुआ था।

[सं. एल-22012/113/2011-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th December, 2019

S.O. 2200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of M/s. W.C.L. and their workmen, received by the Central Government on 18.12.2019.

[No. L-22012/113/2011-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/77-2011

Present: P. K. Srivastava H.J.S. (Retd.)

Shri Narayan Dehriya
S/o Shri Pannalal Dehriya
Resident of Village Simariya Khurd,
Post Pukhedi,
Madhya Pradesh …Workman

Versus

The Chief General Manager,
Western Coalfields Limited
Pathakheda Area,
Post Pathkheda District-Betul,
Madhya Pradesh

AWARD

(Passed on this 21st November,2019)

1. As per letter dated 8-8-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/113/2011-IR(CM-II). The dispute under reference relates to:

> "Wherther Shri Narayan Dehriya's services were illegally terminated vide order dated 16-8-2007? To what relief the concerned workman is entitled to ?"

2. After registering the case on the basis of reference, notices were sent to the parties.

3. The case of the workman as stated in his statement of claim is that he was first appointed as a loader on 2-8-1975 and was in the employment of Management. He was issued a chargesheet of false ground on 25-4-2001 which was later on cancelled by the Management. The workman was sick for a long time and he was advised treatment, he filed applications for sanction of medical leave which was not sanctioned. The management forced the workman for submitting a resignation letter which he submitted on 9-8-2007 but his dues were not given to him and the resignation letter was accepted on 18-8-2007 before 30 days of filing of resignation letter which is against law. Thus the management illegally removed him from service. The workman sought the relief of reinstatement of back wages and benefits and setting aside his termination.

4. The case of Management is that the workman joined to Pathekheda areas on transfer from Bal1arpur wef 8-1-1997. He has been habitual absentee. He also committed misconduct of disobedience and leaving of plalce without permission for which he was also issued a warning on 22-4-1997. He was transferred to Tawa Mine on 10-8-2000, there also he was isued another warning for the same misconduct on 31-10-2000. He was issued chargesheet on 25-4-2001 for negligence in duty. There are well equipped hospitals providing free treatment to the workman if an employee falls sick . If an employee falls sick he has to apply for medical leave along with medical certificate . The workman never reported to any hospital of Management nor did he submit any medical certificate or application for leave. He remained habitual absentee he worked only for 241 days in the year 2000, for 127 days in 2001, for 18 days in the year 2002. He absented himself for the whole year 2005, 2006, 2007. He submitted his resignation on 9-8-2007 duly signed by him and attested by two co-workers which was accepted. He was relieved from services w.e,f 16-8-2007 and retiral benefits as mentioned in the written statement were paid to him The Management has prayed that the reference be answered against the workman. The workman asbented himself before this tribunal also. He did not exmine any witnesses nor did he examine himself as witness.

5. The Management has filed memo dated 31-10-2000, 25-4-2001, and 16-4-2003, the resignation letter, office order acceptiing resignation which all are admiited by workman are marked as exhibit M-1 to M-5 respectively. No witness has been examined by the Management also.

6. The workman did not appear at the stage of argument hence only arguments of Shri A.K.Shashi, learned counsel for Management were heard. The workman did not file any written argument. I have gone through the file.

7. The refernce is the point of detemination in this case.

8. The burden to prove the fact that the resignation of the workman was obtained by force and it was not voluntary is on workman which he has miserably failed to discharge. Hence there is no occasion to hold the alleged removal of the workman as illegal. Accordingly the workman is held entitled to no relief.

9. **On the basis of above discussion, following award is passed:-**

A. The termination of services of workman Narayan Dehriya vide order dated 16-8-2007 is held legal and justified in law.

B. The Workman is held entitled to no relief.

P. K. SRIVASTAVA, Presiding Officer

DATE: 21-11-2019

नई दिल्ली, 19 दिसम्बर, 2019

का.आ. 2201.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 78/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2019 को प्राप्त हुआ था।

[सं. एल-22012/165/2007-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi the 19th December, 2019

S.O. 2201.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of M/s. W.C.L and their workmen, received by the Central Government on 18.12.2019

[No. L-22012/165/2007-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/78-2007

Present: P. K. Srivastava H.J.S..(Retd)

The President,
Koyla Shramik Sabha (HMS),
Regional Pench Area,
Post Lklehra, Trehsil Parasia,
Chhindwara (M.P.) …Workman/Union

Versus

The Manager
Mathani Colliery
Western Coalfields Limited
Pench Area, Post Baghbardhiya
Chhindwara (M.P.) …Management

AWARD

(Passed on this 18th day of November, 2019)

1. As per letter dated 6-8-2007 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-L-22012/165/2007-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of WCL in terminating the services of Shri Siyaram w.e.f. 24.11.2005 is legal and justified? If not, to what relief is the workman entitled ?."

2. After registering the case on the basis of reference, notices were sent to the parties.

3. In his statement of claim, workman has pleaded that chargesheet was issued to him on 30-10-03. Charges pertaining to workman committed fraud with employer, he had submitted false name, age qualification etc. that during course of inquiry, opportunity to prove his innocence was not provided to him. During course of inquiry, no witness was examined before him, he was not given opportunity to cross-examine the witnesses. Enquiry was conducted in violation of principles of natural justice. It is the case of the workman that punishment is also excessive. Accordingly, it has been prayed that his termination be held unjustified in law and fact and he be reinstated with all back wages and benefits.

4. In the written statement filed by the Management, the allegations were denied and it was pleaded that the inquiry conducted was according to settled principles of law and justice, accordingly the workman had full opportunity to defend himself, charges were proved in the inquiry and punishment is also not excessive.

5. At evidence stage, the workman side examined Riyaz Ahmad, the President of the Union. The Management examined its witness and proved documents Exhibit M-1 to M-7 to be referred to as and when required.

6. On the basis of pleadings, preliminary issue as follows was framed by my learned predecessor:-

"1.Whether the inquiry conducted against the workman is proper and legal.?"

7. This preliminary issue was decided by my learned predecessor vide his order dated 4-1-2017 holding the inquiry legal ad proper. This order is part of the award.

8. Thereafter following additional issues were framed by my learned predecessor:-

"."2.Whether the alleged misconduct is proved from the inqury in proceedings.

2.Whether the punsihment of removal imposed against workman is legal and proper, if so to what relief the workman is entitled to"?

9. Parties were given opportunity to lead the evidence on additional issues but none of the parties adduced any evidence on additional issues, hence their opportunity was closed.

10. I have heard arguments arguments of learned Counsel Shri P.C.Chandak for workman and Shri A.K. Shashi for management and have gone through the record.

11. **ADDITIONAL ISSUE NO.1**:- It has been submitted by learned Counsel for workman that charges have not been proved from the evidence conducted during the inquiry. Learned counsel for Management has rebutted this argument. Documents, copy of charge-sheet, copy of inquiry proceedings, Exibit M-1 and M-3 and copy of Inquiry Report Ex.M-4 proved by Management are relevant to this additional issue.

12. According to the charge-sheet the charges were of workman Siyaram committing fraud with the employer and dishonestly getting employment in the name of other person by furnishing wrong information regarding name, age, father's name and qualification. The substance of charge is that the said workman Siyaram was in fact not Siyaram but one Virendra Singh, S/o Teerthraj Singh, resident of Village Sisua, Police Station Kaptanganj, District Kushinagar who impersonated himself to be Siyaram, S/o Chhangur and got compassionate appointment as the son of Chhangur on Chhangur being disqualified on medical grounds.

13. The inquiry proceedings disclose that a Committee was framed when a complaint to this effect was received and with a certified photograph of the alleged workman Siyaram, it was sent to the Superintendent of Police, Kushinagar(U.P.) for inquiry and report whether this photograph is of Virendra Singh son of Teerathsingh, address as mentioned above. The Superintendent of Police , Kushinagar after getting it inquired through the concerned Station House Officer informed the Committee that the photograph, which is said to be of Siyaram, is actually of Virendra Singh, S/o Teerthraj. The arguments of the learned counsel for the workman is that none from the Police Department was examined during the final inquiry to support this contention. The inquiry sheet Exhibit M-3 goes on to disclose that S.N.Jaiswal, Senior Mining Engineer ,who was member of preliminary inquiry had proved this document during the inquiry, He has been cross-examained by the workman. There is nothing on record to discredit him. The workman has himself examined on oath during inquiry. His cross-examination is very interesting . He does not know where his sisters are married. He states that he was informed by letter regarding death of his father that to after 15days of his death and who sent the letter of death he does not know. He does not know if he has any uncle or maternal uncle. When asked as to there are four brothers mentioned in the Panchayat certificate date 26-11-1995, he says he doesn't know about his brothers. His two witnesses have not supported him. All this leads to the inference that the charge leveled is proved as concluded by the Inquiry Officer. Hence holding the charges proved, this additional issue is answered accordingly.

14. The charges proved against the workman is regarding mis- representation and impersonation. This a serious mis-conduct for which termination cannot be said to be dis-proportionately harsh punishment, hence holding the punishment of termination proportionate to the charge. According the additional **issue No.1 is answered accordingly.**

15. **On the basis of above discussion, following award is passed:-**

A. The action of Management of WCL in terminating the services of Shri Siyaram w.e.f. 24-11-05 is held legal and justified.

B. The Workman is held entitled to no relief.

16. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE:18.11.2019

नई दिल्ली, 19 दिसम्बर, 2019

का.आ. 2202.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स एस.ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 84/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2019 को प्राप्त हुआ था।

[सं. एल-22012/389/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi the 19th December, 2019

S.O. 2202-.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 84/2005) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of M/s S.E.C.L and their workmen, received by the Central Government on 18.12.2019.

[No. L-22012/389/2004-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/84-2005

Present: P.K.Srivastava, H.J.S..(Retd)

Shri Manjeet Ram
S/o Shri Nanhu Ram
VII/PO, Mahora, Baikunthpur
Chhattisgarh (C.G.) …Workman

Versus

The Chief General Manager
Baikunthpur Area of M/s. SECL
P.O. Baikanthpur
Chhattisgarh (C.G.) …Management

AWARD

(Passed on this 21st day of November, 2019)

1. As per letter dated 18-8-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/389/2004-IR(CM-II). The dispute under reference relates to:

"***.Shri Manjeet Ram, Aatmaj Nanhu Ram General Mazdoor Category No.1 ko matra seva me kam upasthiti evam anupasthithi ke liye seva se barkhast karke kya mukhya Mahaprabhandak, Baikunthpur Shetra, SECL ne Nyayochit vyavhar evan vidhik karyawahi ke hai.? Yadi nahi to karmkar ko kya anuatosh/rahat milni chahiye***?"

2. After registering the case on the basis of reference, notices were sent to the parties.

3. The case of the workman as stated in his statement of claim is that he was working as a loader in Paandopara Colliery. He fell ill on 8-1-2000. He got himself treated by docotor A.K.Singh in Patna(Bihar) and produced medical certificate along with fitness before the Assistant Manager which was not accepted and he was removed from service on the charge of unauthorised willful and habitual absentism.

4. The workman has further alleged that in fact he was suffering from Tuberculosis hence was under treatment in the year 1999 and 2000 . He could not attend his duties due to his illness. He was issued a charge sheet on the ground of wilful absentism. He had taken a defefnce of sickness and also produced medical certificate which was not believed and the managment terminated his services on the basisis of an inquiry which was ccoducted against the law. The workman has accordingly prayed for his reinstatement with back wages and benefits setting aside his termination.

5. According to the Management the workman was employed as a general mazdoor with the Management of SECL Baikunthpur. He has been habitual absentee. He absented himself from duty, without intimation, permission and sanctioned leave. Inspite of ample opporutnity given to him to improve his attendance he did not show any interest he remained present for only 41 days in 1998 and 12 days in 1999 and nil days in 2000. Therefore, he was issued a chargeshet on 13-6-2000 for unauthorised and habitual absentism. He filed reply to the chargeshet which was unsatisfactory hence the Management decided to conduct a departmental inquriy. Shri U.S Singh was appointed Inquriy officer vide order dated 21-7-2000 and R.P.Sahu was appointed as managment representative. The workman did not avail the services of a defence assistant inspite of offer. The period of absentism was not disputed by the workman. No evidence was adduced justifying his absence on the gounds of sickness. It also came out during the inquiry that he did not report sick to any medical officer or any hospital run by the Managment . Accordingly he was held quilty of charge of unauthorsied habitual absentism. The inquiry report was accepted by disciplinary authotity and after issuing a show cause notice, he was dismissed from service .

6. The case of managment is further that habitulal unauthoriised absence from duty is a misconduct in standing ordres inviting major punishment of dismissal from services.

7. Following preliminary issue was framed by my learned predecessor on the basis of plealdings.

"Whether the inquiry conducted against the workman is legal and proper."

8. On the bais of evidence on record my learned predecessor held the inquriy legal and proper vide his order dated 26-6-2015. Thereafter following points for determination additional issue were framed by my learned predecessor:-

1. ''Whether the alleged misconduct is proved from evidence in Enquiry proceedigs?

2. Whether the punishent of dismissal imposed against workman is legal and proper?

3. If so, to what relief the workan is entitled to ?."

9. Parties were given opportunity to lead evidence on the additional issues. No evidence, oral or documentary was produced by any of the parties.

10. No one appeared from the side of the workman at argument stage, hence arguments of Mr. A.K.Shashi, learned ocunsel for Management was heard . No written argument was filed by the workman, I have gone through the record.

11. The inquiry proceedings and factum of inquiry has been proved by Managmement witness which is exhibit M-1 to M-9 .It comes out that during the inqury it was found that the workman was present on duty for 14 days only in the year 1998 and 12 days in the year 1999. This fact was stated by the bill clerk. The workman admitted that at no point of time he approached any hospital run by the Management. It also comes out that he did file a medical certificate isued by the doctor from patna but he did not prove it .

12. Para 106 Indian Evidence Act requires to be referred here which is as under:-

"Burden of proving fact especially within knowledge- When any fact is especially within the knowledge of any. person, the burden of proving that fact is upon him."

13. This fact makes it clear that when a fact is in special knowledge of any person, burden of proving that fact is on that person hence the burden of proving the fact that he was ill and was under medical treatment during the period of his absence from duty lies on the workman. This burden can be discharged by filing documentary evidence for example Medical Certificate, certificate of fitness, documents regarding diagnosis and treatment or by examining the Doctor under whose treatment the workman was during the period in question. Workman did not file any fitness certificate or medical

certificate or any paper regarding diagnosis or treatment nor did he examined any Doctor under whose treatment he was during the period in question. The workman has examined himself on oath. He has stated in his affidavit filed as his examination-in-chief that he never absented himself during his service period whenever he remained on leave, he had filed his application for leave and during the period of his sickness also, he had filed his application for leave except this self serving statement, there is no document in support. He admits that the dispensary and hospital facilities are available to the workman and their families near the mines and in Sohagpur. He pleads ignorance about the free treatment given to workman in the management's hospital. When the management witness has stated that the workman did not file any certificate or papers regarding his illness and treatment, the burden of proving the fact that he had filed application with the management, is on the workman and he has failed to discharge this burden. Thus from the comparative analysis of evidence as respect to above produced by the parties, it comes out that firstly, the workman absented himself during the period as mentioned above and secondly,the reason for absence alleged by the workman is not established. Hence it is held that the absence of workman for the period as mentioned above is without sufficient cause, meaning thereby it is held proved that the workman absented himself during the period in question as referred above unauthorizedly, without informing the management and without any leave sanctioned. It will not be out of scope to refer the case of New India Assurance Company Ltd versus Vipin Beharilal Srivastava reported in (2008)3 Supreme Court Cases 446. The Apex Court has laid down that mere sending an application for grant of leave is not sufficient. In para-11 of the judgment, the court has observed as follows-

Para-11 The rules governing "leave" read as follows:

(1) General principles governing grant of leave. The following general principles shall govern the grant of leave to the employees;

(a) Leave cannot be claimed as a matter of right.

(b) Leave shall be availed of only after sanction by the competent authority, but one days casual leave may be availed of without prior sanction in case of unforeseen emergency, provided the head of the office is promptly advised of the circumstances under which priorsanction could not be obtained.

(4) Sick leave-

(c) Sick leave can be granted to an employee only on production of a medical certificate from a registered medical practitioner, which term would include homeopathic, ayurvedic and Unani Doctor also provided they are registered medical practitioners.

(d) The certificate should state as clearly as possible the diagnosis and probable duration of treatment."

14. A reference of Rule 12.5 & Rule 13 of Certified Standing Orders applicable in the case of parties , referred to by learned counsel for management is also necessary which is as under:-

Rule 12.5: Application for leave or extension of leave on medical grounds shall be supported by a certificate from a Medical Officer of the company or where there is no such officer, a government Medical Officer or failing him, from a Registered Medical practitioner, stating the period for which leave is recommended. On receipt of such application, the sanctioning authority shall immediately inform the workman in writing whether the leave or extension of leave has been granted and if so for what period. An employee who has been sanctioned leave or an extension of leave on medical ground for a period exceeding 14 days at a time shall not be allowed to resume duty unless he produced a certificate o fitness. If no information is received by the workman, from the management, regarding leave in question as applied for, it may be presumed to be granted."

Rule-13: Application for leave:- A workman who desires to obtain leave of absence shall apply in writing to the Competent Authority, not less than 15 days before the commencement of the leave, except where leave is required in unforeseen circumstances and the competent authority shall issue orders on the application within a week of its submission of two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof orders shall be given on the same day. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose and if the workman so desires a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave, desires an extension thereof, he shall apply to the competent authority who shall send a written reply either granting or refusing

extension of leave to the workman. Sanction/ refusal of leave shall be communicated to the workman in writing.

Similarly **Rule 26.24 & 26.25** which deal with misconduct are also being reproduced as follows:-

Rule 26.24- Habitual late attendance or habitual absence from duty without sufficient cause.

Rule 26.25- Distributing or exhibiting in the company's work premises or estates, hand bills, pamphlets, posters or causing them to be displayed by means of signs or writing or other visible representations any matter prejudicial to the company without prior sanction of the management.

It is therefore, held in the light of evidence discussed above that the workman failed to comply the provisions and his absence, held unauthorized and habitual, the charges against the workman are held proved.

Point for determination No.2 is answered accordingly.

15. **Point for determination No.3**- Rule 27.1 of certified standing order provides about penalties in case of misconduct. One of the penalty is removal/discharge from service and dismissal from service. Now question arises whether the punishment of removal of workman on the charges proved as mentioned is proportionate to the misconduct or not.

16. Learned counsel for management has referred to case **Ever Ready Industries India Ltd, Jabalpur and others versus P.S.Parihar and another reported in 2003(3)MPHT-257 wherein it has been observed by the Hon'ble High Court that employer has justified in weeding out the worthless who have lost utility for the company**. In the referred case, also the workman remained continuously sick for a long period and did not recover. His termination was confirmed by Hon'ble High Court. In case of New India Assurance Company Ltd.(Supra) also, the Apex Court refused to set-aside the dismissal of employee who remained continuously absent for long period without any justification. Keeping this preposition of law ijn view, the dismissal of workman for the charges is held legal and justified. Workman is held not entitled to any relief. Point No.3 is answered accordingly.

17. In the result, award is passed as under:-

A. The action of the management in dismissing Shri Manjeet Ram. S/o Shri Nanhu Ram, General Mazdoor Category-I from services is held legal and justified.

B. The workman Shri Manjeet Ram is not entitled to any relief.

P. K. SRIVASTAVA, Presiding Officer

DATE:21-11-2019

नई दिल्ली, 20 दिसम्बर, 2019

का.आ. 2203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 142/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.12.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi the, 20th December, 2019

S.O. 2203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 142/2015) of the Central Government Industrial Tribunal/Labour Court-2, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Airport Authority of India and others and their workman, which was received by the Central Government on 18.12.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE NO. 142/2015

Date of Passing Award- 25th November, 2019.

Between:
Smt. Sushma,
W/o Shri Sudhir Kumar,
R/o C-17, Mangla Puri Palam Village New Delhi … Workman
Through Hindustan Engineering and General Mazdoor Union (Regd. 4479)
Head Office:- D-2/24, Sultanpuri, Delhi.

Versus

1. M/s. Airport Authority of India,
   Rajiv Gandhi Bhawan, New Delhi-05

2. M/s. Delhi International Airport Limited (DIAL)
   New Uddan Bhawan opposite ATS, IGI Airport New Delhi- 37

3. Managing Director M/s. Impression Services Pvt. Ltd.
   WZ-08/07 First Floor Kirti Nagar Industrial Area, New Delhi-15 …Managements

Appearances:-

None for the claimant (A/R)	For the Workman
Shri Manish Sehrawat,	For the Management DIAL
Shri Sunil Dutt,	For the Management AAI
Shri Rajiv Gupta, (A/R)	For the Management No.3

AWARD

This award shall decide a claim petition directly filed by the workman/claimant Smt. Sushma u/s 2A of the Industrial Dispute Act 1947 (in short the Act), with the averments inter-alia that she had been working on the post of housekeeper under the management since 26.03.2008 and her last drawn wages were Rs. 9500/- per month. There was an agreement between management No.1 and 2 in the year 2006 for cleanliness and maintenance of Airport premises. Management No.2 gave contract to the management no.2 for cleanliness and the workman had been working continuously there under the control and supervision of management No.2. It is pleaded that workman had been working under the management No.1 and 2 through management No.3. Management No.1 contravened the provision of section 7, 10 and 12 of contract Labour and Abolition Act 1970 because the work of the workman was of regular and perennial nature and they were getting the work done through the contractor. The managements violated the labour laws and deprived the workman/claimant of appointment letter, overtime, dearness allowance, wage slip, identity card, bonus, ESI and PF benefits. When the workman demanded the aforesaid legal benefits, the management without any reason refused her to joined duty on 14.05.2013 and thus terminated her services illegally and in violation of the provisions of section 25-F,G and H of the Act. The workman sent a demand letter dated 19.05.2014 to the management but to no response. Thereafter, the workman approached the Assistant Labour Commissioner and conciliation proceeding were initiated but to no avail. The workman is unemployed from the date of her illegal termination and has got no source of livelihood. She has prayed for reinstatement into service with full back wages and continuity of service.

2. Management No.1 viz. Airport Authority of India resisted the claim of the workman, by filing written statement, mainly on the ground that there never existed any relationship of employee –employer between the workman and Management No.1. According to it, the claimant has herself admitted that she ex-employee of management No.3 i.e. M/s Impression Services Pvt. Ltd. She has averred that the management No.3 was under the control and supervision of management No. 2 and hence, her claim against management No.1 is not maintainable. It is alleged that the management No.1 has no role to play in the working of and the service conditions of the management No.3 (contractor) at the IGI Airport after privatization and handing over the of IGI Airport to management no.2/ DIAL. Prayer has been made for dismissal of the claim petition with heavy cost.

3. Management No.2 M/s DIAL also resisted the claim petition by filing written statement, submitting that claimant is not a workman of management No.2 and there is no employer and employee relationship between the claimant and management No.2. Infact claimant was employed with management No.3 and she was receiving salary from management No.3. Hence, management No.2 has never been under an obligation to pay/contribute wages, DA and other benefits to the employees of management No.3. It is stated that the claimant is not entitled for any relief against management No. 2. Prayer has been made for rejection of the claim petition.

4. Management No.3 filed WS and took preliminary objection inter alia that the claim petition has been filed by the claimant with malafide intention and ulterior motive to harass the management and to accept huge amount of money from the management. It is alleged that it was the claimant who herself, without any reason or justification had stopped reporting for work/duty after 21.04.2013 and she left her employment of her own. Her last working day with the management was 21.04.2013.The management had not terminated the services of the claimant and hence, the claim filed by the workman/claimant is not maintainable.

5. On the pleadings of the parties, following issues were framed on17.04.2017 for adjudication

ISSUES

(1) Whether the termination of workman Smt. Sushma is legal and justified? If so its effect?

(2) Whether there is any relationship of employer and employee between any of the management and workman? If so its effect?

(3) Whether the claimant/workman herself stopped to report to do work to management from 21.04.2013? if so its effect?

(4) Whether the workman/claimant did not report for work despite the after made to workman? If so its effect?

(5) Whether the claim is time barred? If so its effect?

(6) Whether claim is maintainable if so its effect?

(7) To what relief the workman/claimant is entitled to.

6. Perusal of the record shows that despite number of opportunities granted to the workman/claimant to adduce evidence in support of her case, she did not lead any evidence. Ultimately this Tribunal presuming that the workman was not interested to pursue her case on merits, was left with no option but to close her evidence vide order dated 19.11.2019. In the circumstances A/Rs for the managements opted not to lead any evidence on behalf of the managements.

7. It is mentioned that onus was upon the claimant/workman to prove her case regarding illegal termination of her services by the management. The workman/claimant has failed to discharge the onus. In view of the fact that the claimant has not led any evidence in support of her case, this Tribunal is constrained to pass "No Dispute Award" in the matter. Since the matter has not been decided on merits, there will be no bar for the claimant to file afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which she is otherwise entitled to. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of the Act.

The reference is accordingly answered

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2019

का.आ. 2204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 49/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.12.2019 को प्राप्त हुआ था।

[सं. एल-11011/12/2013-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi the, 20th December, 2019

S.O. 2204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2014) of the Central Government Industrial Tribunal/Labour Court-2, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Airport Authority of India and their workman, which was received by the Central Government on 18.12.2019.

[No. L-11011/12/2013-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI

PRESENT : SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No. 49/2014

Date of Passing Award : 25th November, 2019

General Secretary,
Airports Authority of India Mazdoor Sangh,
Flat No.166, DDA SFS Flats,
Sector-1, Pocket-II, Dwarka,
New Delhi 110072. …Workman/Claimant Union

Versus

The Executive Director (HR),
Airports Authority of India,
Rajiv Gandhi Bhawan,
Safdarjang Airport,
New Delhi 110003. … Management

Appearances :-

None	For the Workman Union
Shri Manish Sehrawat, A/R	For the Management

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government vide letter No.L-11011/12/2013-IR(M) dated 03.04.2014 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short "the Act") for adjudication of an industrial dispute, terms of which are as under:

> 'Whether non-granting of Special Casual Leave to the office bearers of AAI Mazdoor Sangh at par with those of recognized Union for attending adjudication/ conciliation proceedings etc. is just, fair and legal ? If not, what relief the workman concerned are entitled to ?'

2. Both parties were put to notice and the workman Union filed statement of claim through Shri Harindra Tiwari, General Secretary of the Union, with the averments inter alia that the Airports Authority of India is constituted under the Act of Parliament, Basic objective of the Trade Union – whether recognized or unrecognized is to ensure welfare of the workers and resolve their grievances through the mechanism under the law. The Management is an industry as defined under Section 2(j) of the Act. The question of rights of unions recognized under the Code of Discipline was discussed at 20th Session of Indian Labour Conference (August, 1961) where it was agreed that unions granted recognition under the Code of Discipline should enjoy certain rights vis-à-vis to raise issues and enter into collective agreement with employers on general questions concerning the terms of employment and conditions of service of the workers; to hold discussion with the employees who are members of the Union at a suitable place within the premises of office/factory; to nominate its representatives on Joint Management Councils and/or on bi-partite committees set up by the Management . Nowhere in the Code of Discipline, it was prescribed as to what kind of facilities are to be provided to the office bearers of the recognized Union by the Management. Certain facilities and other previliges are being provided to the recognized Union

by the Management vide office orders dated 22/11/2002 and 10/3/2008. The Management Authority has also made regulation namely Airports Authority of India (Leave) Regulations, 2003 which provides that special casual leave can be granted only to the office bearers of recognized Union. However, clause 15 of the aforesaid Regulations gives discretion to the Chairperson to relax any of the conditions for grant of leave of any other kind, whereas by virtue of clause 16 of the said Regulations, the Management Authority is vested with powers to make amendment from time to time to comply with the statutory obligations. As per clause 17 of the said Regulations, if any doubt arises as to the Interpretation of the regulations, it shall be referred to the Chairperson of the Authority who shall decide the same. Such powers have been granted to the Management to ensure that no one is discriminated and deprived from their rights and AAI continues functioning within the constitutional obligation. It is pleaded that the Industrial Tribunal has got all powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 to try a suit. The workman claimant has thus prayed that an award in favour of the workman Union be passed for grant of special casual leave to attend adjudication/ conciliation proceedings etc. and that the Management be directed to amend the AAI Employees (Leave) Regulations, 2003 making provisions for grant of special casual leave and other privileges to the AAI Mazdoor Sangh registered under the Trade Unions Act, 1926.

3. Management refuted the claim of the workman Union, by filing written statement, submitting that since there is multiplicity of Trade Unions, Management Authority is conducting elections after every five years to determine the majority character/recognized Union and facilities are provided to the recognized Union as per guidelines. The workman Union herein obtained only 159 votes out of the total number of 10800 votes pooled in the last referendum held on 29/1/2013. As per Airports Authority of India (Leave) Regulations, 2003 duly notified in the Gazette of India, facility of special casual leave is granted to the representatives of recognized Union. No exception is feasible to consider granting special casual leave for attending conciliation proceedings to every Registered Trade union representatives. Prayer has been made for dismissal of the claim petition as the workman/claimant Union is not the recognized Union as per latest referendum held in the year 2013.

4. Rejoinder was filed on behalf of the workman Union whereby it denied the allegations of the Management and reiterated its own case as set up in the claim petition.

5. On the pleadings of the parties, following issues were framed by my learned Predecessor on 17/3/2016 :-

1) Whether non-granting of Special Casual Leave to the office bearers of AAI Mazdoor Sangh at par with those of recognized Union for attending adjudication/ conciliation proceedings etc. is just, fair and legal ?? If so, its effect

2) To what relief the workmen are entitled to and from which date?

6. Perusal of the record shows that Shri Harinder Tiwari, General Secretary of the workman Union entered into the witness box as WW1. Though he tendered his evidence by way of affidavit Ex.WW1/A and was partly cross examined, however he did not appear for his further cross examination despite number of opportunities having been granted for the purpose. As such, his testimony can not be read in evidence. On the other hand, the Management examined Shri I.P.Aggarwal, Assistant General Manager (HR) as MW1.

7. Arguments were advanced by Shri Manish Sehrawat, A/R for the Management as none appeared on behalf of the claimant Union. Perused the the records carefully. Findings on the above issues are as follows.

Issue No.1 and 2 :-

8. Both these issues being co-related are taken up together as the same can be disposed of conveniently by common discussion.

9. Short question arises for consideration is whether action of the Management in non-granting special casual leave to the office bearers of the workman/claimant Union at par with those of recognized Union for attending adjudication/ conciliation proceedings etc. is unjust and illegal. Onus to prove the same was on the workman/claimant Union.

10. It is mentioned that since WW1 Harinder Tiwari did not produce himself for further cross examination, his testimony can not be read in evidence and is of no help to the case of the workman Union. Even otherwise, as per the pleadings of the parties and evidence adduced on record, it is manifest that the workman/claimant Union is not a recognized Union of the Management of AAI. Version of MW1 Shri I.P.Aggarwal that the workman Union herein lost secret ballot elections/ refrendum held in the year 2013 as it had obtained only 159 votes out of total number of 10800 voted polled out, has gone unchallenged and unassailed. Guidelines regarding facilities to be provided to the recognized Union were issued by the Management vide office order dated 22/11/2006 (Ex.MW1/6) and in the said guidelines, there

is also a provision for grant of Special Casual Leave to the office bearers of the recognized Union. The workman Union which is not a recognized Union of the Management, has neither adduced any oral or documentary evidence to show that office bearers of unrecognized Union are also entitled to get Special casual leave for attending adjudication/conciliation proceedings etc. by virtue of any Leave Regulations or Standing Orders, nor has led any evidence to show that action of the Management in not granting special casual leave to the office bearers of unrecognized union like the workman Union is in violation of any Rules or Regulations. It has come on record that the Management of AAI had already issued AAI (Leave) Regulations, 2003 (Ex.MW1/7) which were duly notified under the Gazette of India. The said Regulations are binding on all the workmen as well as recognized/unrecognized Union of the Management. It appears that the workman Union under the garb of present industrial dispute wish to assail the validity of the aforesaid Regulations, 2003 (Ex.MW1/7), which can not be allowed by this Tribunal unless it is shown that through the said Regulations, the Management has actually changed the conditions of service of the workmen in contravention of the provisions of Section 9-A of the Act or that the Management indulged in unfair labour practice within the meaning of Section 2(ra) of the Act. Hon'ble Supreme Court in **PEPSU RTC Versus Mangal Singh, (2011) 11 SCC 702** has observed that :-

> "It is well settled law that the regulations made under the statute laying down the terms & conditions of the employees, including the grant of retirement benefits, have the force of law. The regulations validly made under the statutory powers are binding and effective as the enactment of the competent legislature. The statutory bodies as well as general public are bound to comply with the terms & conditions laid down in the regulations as a legal compulsion. Any action or order in breach of the terms & conditions of the regulations shall amount to violation of the regulations which are in the nature of statutory provisions and shall render such action or order illegal and invalid."

13. Having regard to the aforesaid facts & circumstances of the case, this Tribunal is of the opinion that action of the Management in non-granting Special Casual Leave to the office bearers of workman/claimant Union, at par with those of recognized Union for attending adjudication/ conciliation proceedings etc., can not considered as unjust or illegal. Both these issues are, therefore, decided against the workman/claimant Union.

ORDER

The reference is answered on the contest against the claimant Union. In the peculiar facts & circumstances of the case, the claimant Union is not entitled to any relief whatsoever. Award is passed accordingly. Let copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

25th November, 2019

नई दिल्ली, 20 दिसम्बर, 2019

का.आ. 2205.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 174/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.12.2019 को प्राप्त हुआ था।

[सं. एल-11011/21/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi the, 20th December, 2019

S.O. 2205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 174/2015) of the Central Government Industrial Tribunal/Labour Court-2, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Airport Authority of India and others and their workman, which was received by the Central Government on 18.12.2019.

[No. L-11011/21/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE NO. 174/2015

Date of Passing Award- 25th November, 2019

Between:

Shri Mukesh Kumar,
S/o Shri Murari Lal,
R/o- WZ-570, Nangal Rai Padambasti Delhi Cantt. Delhi
Through General Secretary,
Hindustan Engineering and General Mazdoor Union (Regd. 4479)
Head Office:- D-2/24, Sultanpuri, Delhi. … Workman

Versus

1. M/s. Airport Authority of India,
   Rajiv Gandhi Bhawan, New Delhi-05

2. M/s. Delhi International Airport Limited (DIAL)
   New Uddan Bhawan opposite ATS, IGI Airport New Delhi- 37

3. Managing Director M/s Impression Services Pvt. Ltd.
   WZ-08/07 First Floor Kirti Nagar Industrial Area, New Delhi-15 …Managements

Appearances:-

None	For the Workman
Shri Manish Sehrawat,	For the Management DIAL
Shri Hardik Bedi,	For the Management AAI
Shri Rajiv Gupta, (A/Rs)	For the Management No. 3

AWARD

This Award shall dispose of a reference which was made to this Tribunal by the Ministry of Labour, Govt. of India, vide letter bearing No.L-11011/21/2015-R(M) dated 06-11-2015 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

> 'Whether not allowing the workman Shri Mukesh s/o. Shri Murari Lal to resume duty w.e.f. 30.11.2014 by the management of Impression Services Pvt. Ltd. complying with the provisions of Industrial Disputes Act, 1947 (sic. is justified)? If not, what relief the workman concerned is entitled to ?'

Both parties were put to notice and the claimant/workman Mukesh filed his statement of claim, with the averments inter alia that he had been working on the post of housekeeper under the management for the last 8 years and his last drawn wages were Rs. 8554/- per month. There was an agreement between management No.1 and 2 in the year 2006 for cleanliness and maintenance of Airport premises. Management No.2 gave contract to the management no.3 for cleanliness and the workman had been working continuously there under the control and supervision of management No.2. It is pleaded that workman had been working under the management No.1 and 2 through management No.3. Management No.1 contravened the provision of section 7, 10 and 12 of Contract Labour and Abolition Act 1970 because the work of the workman was of regular and perennial nature and they were getting the work done through the contractor. The contract/agreement between management No.2 and 3 is sham and camouflage. The managements violated the labour laws and deprived the workman/claimant of appointment letter, overtime, dearness allowance, wage slip, identity card, bonus, ESI and PF benefits. When the workman demanded the aforesaid legal benefits, the management without any reason refused him to joined duty on 30.11.2014 and thus terminated his services illegally and in violation of the provisions of section 25-F,G and H of the Act. The workman sent a demand letter dated 14.01.2015 to the management but to no response. Thereafter, the workman approached the Assistant Labour Commissioner and conciliation proceeding were initiated but to no avail. The workman is unemployed from the date of his illegal termination and has got no source of livelihood. He has prayed for reinstatement into service with full back wages and continuity of service.

2. Management No.1 viz. Airport Authority of India resisted the claim of the workman, by filing written statement, mainly on the ground that there never existed any relationship of employee –employer between the workman and Management No.1. According to it, the claimant has herself admitted that he ex-employee of management No.3 i.e. M/s Impression Services Pvt. Ltd. He has averred that the management No.3 was under the control and supervision of management No.2 and hence, his claim against management No.1 is not maintainable. It is alleged that the management No.1 has no role to play in the working of and the service conditions of the management No.3 (contractor) at the IGI Airport after privatization and handing over the of IGI Airport to management no.2/ DIAL. Prayer has been made for dismissal of the claim petition with heavy cost.

3. Management No.2 M/s DIAL also resisted the claim petition by filing written statement, submitting that claimant is not a workman of management No.2 and there is no employer and employee relationship between the claimant and management No.2. Infact claimant was employed with management No.3 and he was receiving salary from management No.3. It has been denied that agreement between the management No.2 and 3 is sham and camouflage. It is alleged that management No.2 has never been under an obligation to pay/contribute wages, DA and other benefits to the employees of management No.3. It is stated that the claimant is not entitled for any relief against management No. 2. Prayer has been made for rejection of the claim petition.

4. Management No.3 filed WS and took preliminary objection inter alia that the claim petition has been filed by the claimant with malafide intention and ulterior motive to harass the management and to accept huge amount of money from the management. It is alleged that it was the claimant who himself, without any reason or justification had stopped reporting for work/duty after 01.12.2014 and he left his employment of his own. His last working day with the management was 31.11.2014. It is alleged that even before the Conciliation Officer the management had given offer to the workman/claimant to come and report for duty but the claimant did not report for duty. The management had not terminated the services of the claimant and hence, the claim filed by the workman/claimant is not maintainable.

5. On the pleadings of the parties, following issues were framed on17.05.2017 for adjudication

ISSUES

(1) Whether the termination of workman Shri Mukesh by the management is legal? If so its effect?

(2) Whether there exist any relationship between employer and employee between management and claimant? If so its effect?

(3) Whether claim is maintainable? If so its effect?

(4) To what relief the workman is entitled to?

6. Perusal of the record shows that despite number of opportunities granted to the workman/claimant to adduce evidence in support of his case, he did not lead any evidence. Ultimately this Tribunal presuming that the workman was not interested to pursue his case on merits, was left with no option but to close his evidence vide order dated 19.11.2019. In the circumstances A/Rs for the managements opted not to lead any evidence on behalf of the managements.

7. It is mentioned that onus was upon the claimant/workman to prove his case regarding illegal termination of his services by the management. The workman/claimant has failed to discharge the onus. In view of the fact that the claimant has not led any evidence in support of his case, this Tribunal is constrained to pass "No Dispute Award" in the matter. Since the matter has not been decided on merits, there will be no bar for the claimant to file afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which he is otherwise entitled to. Award is passed accordingly. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

The reference is accordingly answered
Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

25th November, 2019

नई दिल्ली, 20 दिसम्बर, 2019

का.आ. 2206.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सीमेंट कार्पोरेशन ऑफ इण्डिया एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 82/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-29012/18/2014-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 20th December, 2019

S.O. 2206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2014) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Cement Corporation of India and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-29012/18/2014-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/82-2014

Present: P. K. Srivastava, H.J.S..(Retd)

1. Shri Shantilal, S/o Daluramji Sutar
R/o Village Bamanbardi,
P.O. Nayagaon, Tehsil Jaward,
District Neemuch (MP)

2. M/s. Kamthan Security Service
2nd Floor, Raj Plaza,
23, Sanyogitaganj, Chhawani,
Indore (M.P.) …Workman/Union

Versus

The General Manager,
Cement Corporationh of India,
Nayagaon, Tehsil Jaward
District Neemuch (M.P.) …Management

AWARD

(Passed on this 21st November, 2019)

1. As per letter dated 27-10-2014+by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-29012/18/2014(IR(M). The dispute under reference relates to:

> ''Whether the action of the Management of Cement Corporation of India, Nayagaon Cement Factory, Meemuch in terminating the services of Sh. Shantilal S/o Daluramji Sutar w.e.f. 15-1-2013 is justiced?, if not, to whatr relief the workman is entitled for ?"

2. During hearing the parties filed compromise application(Form-H) which was taken on record. It was verified today in Lok-Adalat held after lunch. The Award is passed in terms of compromise which shall form part of the Award.

3. The reference is answered accordingly.

P. K. SRIVASTAVA, Presiding Officer

DATE:21-11-2019

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 01/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad,
Dated 20th November, 2019

Complaint (CGITA) No. 01/2019

in

Reference (CGITA) No. 98/2018

Santoshkumar Shivkumar Yadav,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
   ONGC Ltd., 5th Floor, Avani Bhavan,
   Chandkheda, Ahmedabad (Gujarat)

2. The Director,
   M/s. Lion Man Power Solution Pvt. Ltd.,
   F/22, Siddhichakra, Opp. Visat Petrol Pump,
   Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 12 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M. K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 13 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 11/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad

Dated 20th November, 2019

Complaint (CGITA) No. 11/2019

in

Reference (CGITA) No. 98/2018

Raghu Nandan Singh Ramgopal Rajput,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
   ONGC Ltd., 5th Floor, Avani Bhavan,
   Chandkheda, Ahmedabad (Gujarat)

2. The Director,
   M/s. Lion Man Power Solution Pvt. Ltd.,
   F/22, Siddhichakra, Opp. Visat Petrol Pump,
   Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 02/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 02/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad

Dated 20th November, 2019

Complaint (CGITA) No. 02/2019

in

Reference (CGITA) No. 98/2018

Kalyanbhai A. Rathod,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
   ONGC Ltd., 5th Floor, Avani Bhavan,
   Chandkheda, Ahmedabad (Gujarat)

2. The Director,
   M/s. Lion Man Power Solution Pvt. Ltd.,
   F/22, Siddhichakra, Opp. Visat Petrol Pump,
   Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ०एन०जी०सी० लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 03/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 03/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 03/2019
in
Reference (CGITA) No. 98/2018

Narendrakumar R. Solanki,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
   ONGC Ltd., 5th Floor, Avani Bhavan,
   Chandkheda, Ahmedabad (Gujarat)

2. The Director,
   M/s. Lion Man Power Solution Pvt. Ltd.,
   F/22, Siddhichakra, Opp. Visat Petrol Pump,
   Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

Let two copies of Award are sent to the appropriate Government for the needful and for publication.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ०एन०जी०सी० लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 04/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 04/2019
in
Reference (CGITA) No. 98/2018

Parmar Pravinkumar Chhanabhai,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No. 2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ०एन०जी०सी० लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 05/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT cum Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 05/2019
in
Reference (CGITA) No. 98/2018

Shah Chirag Nagindas
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2213.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ०एन०जी०सी० लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 06/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2213.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 06/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi,Presiding Officer, CGIT-cum-Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 06/2019

in

Reference (CGITA) No. 98/2018

Rajendrakumar Muljibhai Mali
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant	:	Shri Hemal K. Acharya
For the Opponent No.1	:	Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2	:	None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2214.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 07/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2214.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 07/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 07/2019
in
Reference (CGITA) No. 98/2018

Bharatkumar Vitthalbhai
Solanki,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 08/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 08/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT cum Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 08/2019
in
Reference (CGITA) No. 98/2018

Naranbhai Jakshibhai Rabari
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ०एन०जी०सी० लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 09/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 09/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 09/2019
in
Reference (CGITA) No. 98/2018

Khodaji Dahyaji Thakor,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

का.आ. 2217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओ०एन०जी०सी० लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 10/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2019 को प्राप्त हुआ था।

[सं. एल-30011/42/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2019

S.O. 2217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2019) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and other and their workman, which was received by the Central Government on 19.12.2019.

[No. L-30011/42/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Radha Mohan Chaturvedi, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad
Dated 20th November, 2019

Complaint (CGITA) No. 10/2019
in
Reference (CGITA) No. 98/2018

Rajubhai Shakabhai Rabari,
C/o Gujarat Labour Union,
3/24, Ellora Comm. Centre,
Behind Relief Cinema, Ahmedabad (Gujarat) …Complainant

V/s

1. The Executive Director,
ONGC Ltd., 5th Floor, Avani Bhavan,
Chandkheda, Ahmedabad (Gujarat)

2. The Director,
M/s. Lion Man Power Solution Pvt. Ltd.,
F/22, Siddhichakra, Opp. Visat Petrol Pump,
Sabarmati, Ahmedabad (Gujarat) …Opponents

For the Complainant : Shri Hemal K. Acharya
For the Opponent No.1 : Shri K.V. Gadhia & Shri M.K. Patel
For the Opponent No.2 : None

AWARD

1. Shri Hemal K. Acharya, advocate for applicant/complainant filed an application Ex. 13 to take the file for hearing today as he intended to withdraw the complaint against opponents. Ld. Advocate for opponent no. 1 Shri M.K. Patel is also present who expressed no objection on it. Thus, the case file is taken on board today.

2. The complainant through its advocate then filed an application Ex. 14 to withdraw the complaint filed against opponents, contending that the complainant has authorised him to do so. Advocate for opponent has no objection on this withdrawal of complaint. Therefore, the complainant through its advocate is permitted to withdraw this complaint.

3. The complaint is dismissed as withdrawn. There is no order as to costs. May be consigned to record after due formalities. Order pronounced.

RADHA MOHAN CHATURVEDI, Presiding Officer

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